THE UNITED NATIONS OIL FOR FOOD PROGRAM

HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND AIR QUALITY

OF THE

COMMITTEE ON ENERGY AND COMMERCE
HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

MAY 14, 2003

Serial No. 108–18

Printed for the use of the Committee on Energy and Commerce

Available via the World Wide Web: http://www.access.gpo.gov/congress/house

U.S. GOVERNMENT PRINTING OFFICE

87–486PS WASHINGTON : 2003

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON ENERGY AND COMMERCE

W.J. "BILLY" TAUZIN, Louisiana, *Chairman*

MICHAEL BILIRAKIS, Florida
JOE BARTON, Texas
FRED UPTON, Michigan
CLIFF STEARNS, Florida
PAUL E. GILLMOR, Ohio
JAMES C. GREENWOOD, Pennsylvania
CHRISTOPHER COX, California
NATHAN DEAL, Georgia
RICHARD BURR, North Carolina
Vice Chairman
ED WHITFIELD, Kentucky
CHARLIE NORWOOD, Georgia
BARBARA CUBIN, Wyoming
JOHN SHIMKUS, Illinois
HEATHER WILSON, New Mexico
JOHN B. SHADEGG, Arizona
CHARLES W. "CHIP" PICKERING, Mississippi
VITO FOSSELLA, New York
ROY BLUNT, Missouri
STEVE BUYER, Indiana
GEORGE RADANOVICH, California
CHARLES F. BASS, New Hampshire
JOSEPH R. PITTS, Pennsylvania
MARY BONO, California
GREG WALDEN, Oregon
LEE TERRY, Nebraska
ERNIE FLETCHER, Kentucky
MIKE FERGUSON, New Jersey
MIKE ROGERS, Michigan
DARRELL E. ISSA, California
C.L. "BUTCH" OTTER, Idaho

JOHN D. DINGELL, Michigan
HENRY A. WAXMAN, California
EDWARD J. MARKEY, Massachusetts
RALPH M. HALL, Texas
RICK BOUCHER, Virginia
EDOLPHUS TOWNS, New York
FRANK PALLONE, Jr., New Jersey
SHERROD BROWN, Ohio
BART GORDON, Tennessee
PETER DEUTSCH, Florida
BOBBY L. RUSH, Illinois
ANNA G. ESHOO, California
BART STUPAK, Michigan
ELIOT L. ENGEL, New York
ALBERT R. WYNN, Maryland
GENE GREEN, Texas
KAREN McCARTHY, Missouri
TED STRICKLAND, Ohio
DIANA DEGETTE, Colorado
LOIS CAPPS, California
MICHAEL F. DOYLE, Pennsylvania
CHRISTOPHER JOHN, Louisiana
TOM ALLEN, Maine
JIM DAVIS, Florida
JAN SCHAKOWSKY, Illinois
HILDA L. SOLIS, California

DAVID V. MARVENTANO, *Staff Director*
JAMES D. BARNETTE, *General Counsel*
REID P.F. STUNTZ, *Minority Staff Director and Chief Counsel*

SUBCOMMITTEE ON ENERGY AND AIR QUALITY

JOE BARTON, Texas, *Chairman*

CHRISTOPHER COX, California
RICHARD BURR, North Carolina
ED WHITFIELD, Kentucky
CHARLIE NORWOOD, Georgia
JOHN SHIMKUS, Illinois
Vice Chairman
HEATHER WILSON, New Mexico
JOHN SHADEGG, Arizona
CHARLES W. "CHIP" PICKERING, Mississippi
VITO FOSSELLA, New York
STEVE BUYER, Indiana
GEORGE RADANOVICH, California
MARY BONO, California
GREG WALDEN, Oregon
MIKE ROGERS, Michigan
DARRELL ISSA, California
C.L. "BUTCH" OTTER, Idaho
W.J. "BILLY" TAUZIN, Louisiana
(Ex Officio)

RICK BOUCHER, Virginia
(Ranking Member)
ALBERT R. WYNN, Maryland
THOMAS H. ALLEN, Maine
HENRY A. WAXMAN, California
EDWARD J. MARKEY, Massachusetts
RALPH M. HALL, Texas
FRANK PALLONE, Jr., New Jersey
SHERROD BROWN, Ohio
BOBBY L. RUSH, Illinois
KAREN McCARTHY, Missouri
TED STRICKLAND, Ohio
LOIS CAPPS, California
MIKE DOYLE, Pennsylvania
CHRIS JOHN, Louisiana
JOHN D. DINGELL, Michigan
(Ex Officio)

CONTENTS

THE UNITED NATIONS OIL FOR FOOD PROGRAM

WEDNESDAY, MAY 14, 2003

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON ENERGY AND AIR QUALITY,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:08 a.m., in room 2322, Rayburn House Office Building, Hon. Joe Barton (chairman) presiding.

Members present: Representatives Barton, Burr, Whitfield, Shimkus, Walden, Rogers, Issa, Otter, Tauzin (ex officio), Boucher, Wynn, Hall, and Brown.

Staff present: William Cooper, majority counsel; Andrew Black, majority counsel; Peter Kielty, legislative clerk; Sue Sheridan, minority counsel; and Bruce Harris, minority counsel.

Mr. BARTON. The subcommittee will come to order.

Before we start our hearing, we are going to show a video that appeared yesterday on Fox News about the subject of this hearing. It's about 2 to 3 minutes in length. Let's move the screen so the audience can see it as well as the members. Unfortunately, our friends at the press table can't see it, but if you want to get up and go out in the audience, you're not going to be penalized for that.

[Video Presentation.]

Mr. BARTON. We have to say on the record that the editorial opinions are the opinions of that particular reporter and not necessarily the opinions of the U.S. Government, or the U.S. Congress, for that matter.

The subcommittee is now going to come to order. We are going to proceed pursuant to Committee Rule 4(e) which governs opening statements by members and the opportunity to defer them for extra questioning. Is there any objection to continuing under that particular rule? Hearing none, so ordered.

The Chair is going to recognize himself now for an opening statement.

Four years ago, this subcommittee held a hearing on the Iraqi Oil for Food Program, operated by the United Nations. On March 26, 1999, we learned that the Government of Iraq was smuggling oil outside of the program, with significant impacts on the energy markets. Mr. Hall of Texas, who was then the ranking member of this subcommittee, said that he was suspicious of the program and that "it could spawn a lot of abuse". That's a direct quote from Mr. Hall's written statement.

Mr. Shimkus, who was a member of the subcommittee but at that time not its vice chairman, said that legal and illegal Iraqi oil exports were leading to the closure of domestic marginal wells in his congressional district in Illinois and elsewhere, and that this was decreasing our dependence upon imported oil.

Mr. Largent, a recently retired Member of Congress, who was then a member of the subcommittee, raised concerns that money intended for humanitarian assistance was not being spent in a proper manner. We've just seen an indication of that in the video.

The concerns of those members at that time have been consistently confirmed. The U.N. Oil for Food Program has been shown to be a bad plan that has been implemented badly. The various food and medicine accounts have often been under-funded. Inspectors in many cases could not stem the flow of illegal oil around the program. Saddam Hussein's regime has put illegal surcharges on oil sales and required kickbacks, giving funds to the regime and not to the Iraqi people, as was intended by the program.

The General Accounting Offices estimates that, between 1997 and 2001, Saddam Hussein accumulated some $6.6 billion from illegal oil smuggling and from illicit deals connected to the Oil for Food Program. Shortly after touring a freed Baghdad, General Tommie Franks said that it should have been called the "Oil for Palace Program". He appears to have been right.

We have since learned that the United Nations, or some of it's members, anyway, have been gaming the system alongside Saddam Hussein. In addition to underfunding humanitarian assistance programs, a surprising number of questionable contracts have gone to countries that were later conspicuous in their opposition to our forcing a regime change.

Four years later, the government of Saddam Hussein has been removed. Thank the Lord for that. The people of Iraq are free, but they are not yet free from the U.N. sanctions imposed upon Saddam Hussein. Because there is no need for sanctions, there should be no need for that great exemption to sanctions that was mistakenly named Oil for Food Program.

On June 3 of this year, the U.N. Oil for Food Program will cease to be authorized. It deserves to die a natural death, in my opinion.

The Oil for Food Program is riddled with problems. First, oil sales in the program are not transparent. Buyers do not know the price they are paying until after they receive the oil. The money goes to the U.N. escrow account to be carved up by bureaucrats before it comes back, therefore slowing the process of reinvesting in the Iraqi oil sector. The necessary upgrading of old and damaged energy infrastructure in Iraq has been delayed and is continuing to be delayed, causing environmental decay, reduced access to their oil, and additional cost in recovery. I am told there are some $12 billion in the escrow accounts at this point in time.

The market price of oil is affected by developments all over the world because is easily transported. It's called "fungible". A small amount of production at the margins has a great impact on global prices. That is why production quotas in the OPEC cartel, the frequent surpassing of them by member countries, is of interest to market participants. Consumers, producers and market participants in the U.S. and elsewhere deserve an oil sales program to be

transparent, and made transparently so in international markets, where the full effects can be measured.

Three percent of the Oil for Food Program proceeds are taken off the top for the United Nations itself. Talk about a sweet deal. Next, 25 percent goes to a U.N. Compensation Commission for war reparations, which surely need to be renegotiated now. Then there is a rigid set of supposed humanitarian assistance requirements for different sections of the country. Some of those have never been implemented. U.S. officials, including the Clinton administration, were concerned that Iraq was using revenues to buy prohibited military equipment and often other item of largess for high-ranking Iraqis. Again, our video has shown some of that.

I will be sending a letter to the United Nations at the end of this hearing, asking that this Committee and the Congress receive a full accounting, and a transparent accounting, of the Oil for Food Program. Congress has no power to subpoena records of the United Nations, but I am going to encourage the U.N. to fully explain this program, not just to this Committee and this Congress, but to the world, because it has never been externally audited. Those who wish to continue the program should come clean about who has benefited and where the moneys have gone.

I am also going to suggest that the U.N. transfer the uncommitted balance—and it's in the billions of dollars—to a humanitarian assistance account of the coalition forces that have actually liberated Iraq, so that account may attempt to bring a better life much more quickly to the people of Iraq today. I am told that it takes 6 months just to process the paperwork for requests for funding under the current program.

I want to commend President Bush for saying that sanctions should be lifted and that the oil wealth of Iraq should stay with the Iraqi people, and its sales will not continue to go through the Oil for Food Program. The newly freed people of Iraq should not be saddled with a program designed for another time, with contractual obligations made by a previous regime, with a payment schedule that deprives them of the full fruit of their own natural resources. Until a new Iraqi Government can be formed, the United States and its coalition partners should manage the sale of oil for the people of Iraq without diverting money from sales, as the U.N. program has done in the past.

I want to thank the witnesses for their testimony today, and I look forward to hearing it.

With that, I would recognize our ranking member, Mr. Boucher of Virginia, for an opening statement.

Mr. BOUCHER. Thank you very much, Mr. Chairman.

The Oil for Food Program was established by the United Nations in April 1995 as a means of alleviating human suffering in Iraq, while seeking Iraqi compliance with a variety of United Nations' resolutions. The implementation of the program began in December 1996, and the first food shipments to Iraq arrived in March 1997.

The program has undergone a number of changes in the intervening years, including increases in the amount of oil that Iraq has been permitted to export under its guidelines. Under the program's guidelines, the revenues generated from the sale of Iraqi oil are distributed based upon a formula that allocates the largest portion

of the revenues for reparations of the victims of the invasion of Kuwait and for humanitarian supplies and equipment. According to the United Nations, as of May 7 of this year, $26.8 billion worth of humanitarian supplies and equipment have been sent to Iraq under the program, and another $10.1 billion of supplies are now in the process of being approved and shipped.

The Oil for Food Program is set to expire on June 3, 2003. Given the recent war and the numerous concerns that are associated with the restoration of Iraq, and the numerous concerns that have been voiced from a variety of sources concerning the operation of this program, it seems to me that this hearing is well-justified. I want to commend the Chairman for bringing this matter before the subcommittee in a timely way.

The administration and the United Nations are appropriately considering at the present time whether there is a continuing need for the Oil for Food Program in post-war Iraq. Today, we have before the subcommittee three witnesses who can testify regarding the program and the effect that continuing or ending the program will have on Iraq and world energy markets. I very much look forward to this testimony and I join with you, Mr. Chairman, in welcoming these witnesses.

Thank you. I yield back.

Mr. BARTON. We thank you.

We will now receive an opening statement from the full Committee Chairman, Mr. Tauzin of Louisiana.

Chairman TAUZIN. Thank you, Mr. Chairman.

First of all, I think it's important to identify the basis upon which this hearing is, in fact, called and executed. It is obviously one connected directly to this country's concerns about not only its domestic but international oil policy. That is obviously a subject before this Committee.

Second, this Committee continues to have jurisdiction over foreign commerce, and obviously this is a huge interest to the foreign commerce of the United States and its global trading partners.

Let me first say, Mr. Chairman, that your timing couldn't be better. I mean, as the U.N. is beginning to focus on and face this issue, it is important that the Congress and the United States have a full accounting of how this program has worked and whether or not it should be allowed to expire a natural death on June 3 of this year, when it is scheduled to expire.

Let me lay the facts down as we see them and as we have your written testimony before us today, and I want to thank all the witnesses who have come today to help us understand this issue.

First is that, just yesterday, crude oil prices closed up $1.15 a barrel, to a high of $28.50 again. Natural gas prices in America were $5 Mcf. We continue to see high oil and natural gas prices in our U.S. economy struggling to recover. I can tell you from the oil patch that those who want to make investments in the oil patch look at these prices and understand they're phony.

It is still based upon some real artificial disruptions in the international oil markets. When oil prices are unnaturally high, investors in the oil patch restrain from investing, because they know they're going to come down when conditions normalize again. So, for those two reasons, we have great concerns. These continued

high prices impact the desire of this country to seek economic recovery and in some parts of the country is threatening closure of some industries and businesses because natural gas prices are so exceptionally high.

Second, the people who ought to be investing in more natural gas and oil production in this country are restraining their investment until these markets normalize. So we have great interest in normalizing international oil markets again.

Third, as I understand it, the Iraqi oil industry is in terrible state of disrepair. It's in bad shape following this war. The people of Iraq desperately need the sale of their own oil in order to rebuild their country and to provide humanitarian assistance to people who depend upon that assistance in a country just wreaked with war.

And yet the U.N. still is defending this Oil for Food Program, which was designed, as I understand it, to allow money to go to humanitarian assistance, and we're seeing some real problems in that administration. But it also was to fund the inspectors. The question remains: should Iraq have any sanctions on it today, should it be able to renew its oil production and sale of oil to the world community so that it can recover economically, and so that humanitarian aid can be provided to its people with its own money, or should the U.N. continue this Oil for Food Program that is now the subject of so much criticism and was designed to try to get inspectors into the country to find out what Saddam was up to in terms of weapons of mass destruction.

It seems to me that this program is a program whose day has come. We ought to let it expire a natural death, but more importantly, we ought to get this country back on its feet as quickly as we can in terms of oil production—for two reasons: one for the sake of the Iraqis, who need their own assets to rebuild their own country, and to provide, as I said, humanitarian assistance for their own people, but second, to normalize the conditions of the global oil markets again, so that we can get back down to normal investments and normal production, and hopefully normal prices again in the marketplace.

Most of the people I talk to tell me that oil prices should probably be in the low 20's right now, and that these high prices are still a result of these uncertainties and the diplomatic maneuvering going on at the U.N. The sooner we can end that and get the normal marketplace again, the faster this country can be back on the road to recovery.

Thank you, Mr. Chairman, for examining this, and thank you for coming to help us understand it, because what happens in this area is not only going to dramatically affect what happens in Texas and Louisiana and the oil patch of this country; it's going to dramatically affect the economic recovery of our country and, frankly, parts of the world that are desperate right now to see some economic recovery.

Thank you, Mr. Chairman.

Mr. BARTON. Thank you, Chairman Tauzin.

Does Mr. Brown wish to make an opening statement?

Mr. BROWN. I do, Mr. Chairman.

Mr. BARTON. Okay. The gentleman is recognized for 3 minutes.

Mr. BROWN. Thank you for putting this hearing together. I thank the panel.

The Bush administration recently proposed that the U.S. maintain control over Iraq's oil reserves until our country determines it's safe to leave those resources in Iraqi hands. This move is yet another reminder of the staggering influence that energy companies have over this administration's policy.

We know that Vice President Cheney ran the oil conglomerate Haliburton until Governor Bush tapped his fellow Texan to be his running mate 3 years ago. Haliburton and its French subsidiary had over $73 million in contracts with Saddam Hussein's Iraq as recently as the year 2000. Most of us know that the Bush administration abandoned the competitive bidding process to ensure that Haliburton's subsidiary got a lucrative Iraqi oil field reconstruction contract during the war. That contract may be worth yet as much as $7 billion.

The most obvious example of the energy industry's influence over the Bush administration is the almost total secrecy the White House has imposed on the records of Vice President Cheney's Energy Policy Task Force. Their obsession with secrecy in this case is certainly understandable. If I were to allow the American Petroleum Institute and the National Mining Association and the Nuclear Energy Institute and the Edison Electric Institute to write my energy plan, I wouldn't want the word to get out, either. But you really have to wonder, if the process is so embarrassing that you have to keep it secret, can the resulting policy be much better?

As we look back on this record of favor for the energy lobby, it's little surprise that the administration proposes to assert more formal and direct control over Iraq's oil infrastructure. It's good we're going to talk today about the future of Iraq and her oil assets, but I think we're missing the most important part of the conversation. The Bush administration's influence over oil in Iraq is an important issue, but for American taxpayers, the oil industry's influence over the Bush administration, frankly, is a much more important one.

Thank you, Mr. Chairman.

Mr. BARTON. You still have a minute now.

Mr. BROWN. I'm yielding it back.

Mr. BARTON. Okay. I didn't hear much about the purpose of the hearing in your opening statement, but it sure sounded sincere.

Mr. BROWN. Since when did the chairman begin to comment on opening statements of other members?

Mr. BARTON. I was just so overcome with affection for the gentleman from Ohio, and his appearance here——

Mr. BROWN. I appreciate that, my friend from Texas.

Mr. BARTON. Who's next? Mr. Whitfield, do you wish to make an opening statement?

Mr. WHITFIELD. Mr. Chairman, I feel speechless at this point.

Mr. BARTON. All right. So you'll get an extra 3 minutes on your first round of questioning.

Does Mr. Wynn wish to make an opening statement?

Mr. WYNN. Yes, Mr. Chairman, briefly.

Mr. BARTON. The gentleman is recognized for 3 minutes.

Mr. WYNN. Thank you, Mr. Chairman. I appreciate you calling this hearing on what I think is a very important issue, given what we've already accomplished in Iraq and the need to ensure that our military accomplishment is not over-shadowed by unsuccessful reconstruction, I guess is the best way I would characterize it.

One of the premises, it seems to me, that was raised in connection with the war in Iraq was that, yes, there will be devastation, but we have a greater opportunity to rebuild because Iraq has its own resources, namely, oil. It remains to be seen whether we can efficiently put those resources to work to rebuild Iraq.

Specifically, let me turn to the Oil for Food Program that in the 1990's alleviated some of the worst effects of the 1991 Gulf War, the international sanctions regime. The program basically allowed Iraq to export limited amounts of oil in return for food, medical supplies, new construction and other significant items.

I think that was a good idea. The goal of the program was to prevent the oil revenue from being used to expand Iraq's weapons of mass destruction program, but allow for food and other necessities to be funneled into Iraq, again using its own resources.

However, now that the country has been liberated, the program may, in fact, not be necessary. However, should the program continue for several months, as the U.S. has proposed before the United Nations, we should examine—and this is where I believe we have a true responsibility—we should examine ways to ensure transparency with respect to the financial transactions and the independent external audit program.

It seems to me that the World Bank and International Monetary Fund, organizations which have experience in this area, could play a role to oversee how these revenues are spent to ensure they are spent for the good of the Iraqi people. In addition, there should be a limited U.N. role to appoint auditors to oversee some of these financial transactions, again to ensure that the benefit goes to the Iraqi people.

Now, this is a fairly new resolution and we have not had a lot of opportunity to examine it, but I think there are a lot of questions that, hopefully, our witnesses and this committee will consider. For example, should this resolution be adopted, how will we ensure a smooth transition away from the Oil for Food Program as administered by the United Nations without compromising humanitarian assistance for Iraqis. I think it goes without saying that our reconstruction efforts thus far have not been a model of success. Hopefully, any transition would be much more effective.

Second, how soon will Iraq be able to export significant oil and generate revenue, given the poor oil-producing infrastructure in place from years of sanctions and looting? That's another consideration that I hope this committee will consider.

Just to reflect on the humanitarian situation, I would point out that the World Health Organization announced at Basra, Iraq's second largest city, could experience an outbreak of cholera from untreated sewage that is spewing into the river, and there is still nightly violence in the streets of Baghdad. It seems to me that rebuilding Iraq quickly and effectively, using its own oil resources, is very important, so that the average Iraqi is better off without Saddam, definitely without Saddam.

It will help show the Arab streak, which I think is very important in our overall foreign policy, and the rest of the world, that we are not just interested in oil but we're interested in the welfare of the Iraqi people.

Mr. Chairman, I appreciate your attention to this matter and I look forward to today's witnesses.

Mr. BARTON. We thank the gentleman from Maryland.

Does the gentleman from Oregon wish to make an opening statement?

Mr. WALDEN. Mr. Chairman, I'm going to waive my opening statement in lieu of questions.

Mr. BARTON. The gentleman defers.

Does the distinguished gentleman from Texas wish to make an opening statement?

Mr. HALL. Are you talking to me?

Mr. BARTON. Yes, sir. You're the only distinguished gentlemen from Texas that I know of in the room, at least at the dias.

Mr. HALL. How about you?

Mr. BARTON. Well, I'm not distinguished.

Mr. HALL. Well, I thank you, Mr. Chairman. I thank this fine group for coming before us here with the great job that they have done. I agree with a lot of the statements Sherrod Brown made, and Mr. Wynn.

I would relegate the U.N. on the basis of reporting to them what we did, because we have to have some international organization, but with the total lack of support that they gave us, I think we owe them very little. For the pseudo-leaders of Iraq that are trying to make demands on us now, I think they need to once again know that they supported a dictator for many, many years, and also remind them that they lost this war, they didn't win it, and they need to be careful with their demands.

I noted on the television this morning that we had given some instructions to shoot the looters. I think that's long been delayed. As Congressman Brown said, and Mr. Wynn, we absolutely have to win this peace now. The most important part of this war is probably in front of us. I think it's appropriate to hold this hearing this morning, to reassess the Oil for Food Program, which I've been opposed to from the time it was undertaken, as I think the Chairman has. We've had a bill to try to stop it one time. I don't remember what happened to it. I don't think we could ever get it out of subcommittee.

But with the demise of the regime over there, there is clearly no further need to continue this program. It will be continued in some way, but I guess melded in with our overall thrust to try to get that country straightened out.

A lot of questions remain to be answered in the transitional phase we're now in and about to ultimately deliver the Iraqi oil assets to whatever successor government is established. I wish and hope that we could deliver part of that oil assets to the American people. That's what the world is accusing us of, and that's exactly what every other conqueror probably would do. We need to pay the American taxpayer back for the cost of this war, with at least half of the energy that we produce from Iraq, and take the other half to build them back.

I don't know how possible that is, but I think that's what all the people in my district are saying, that we think they ought to pay for the war that they created, that they brought on themselves, and they have the assets to do it with.

While we're looking for Saddam Hussein, and looking everywhere for him, we ought to also look for one child that that program probably helped. I doubt seriously if they're going to find it. I think one child that benefited from what I think is a diabolical deal that the U.S. carried out with an international thug that they now look for. I want to find some proof that that helped. I hope I find it there, because I hope it did help youngsters and help people who were ill and needed it, but I have real doubts about it.

We also need to be mindful of how closely our actions with respect to Iraqi oil are being watched by the Arab world, and might let them know there's not a hell of a lot of their business as to what we do with it and how we handle it. They need to know that we won the war without their help, we won the war without the help of the United Nations, and while we have to have some type of an international organization—I'm not saying pull out of the United Nations, or that old saying of let China in the U.N. and let's give them our spot, you know, and all that that went on for a long, long time. But I think that, as we're here today, many if not most of the Arab nations believe that we're in Iraq for the oil, to take the oil for our own use as spoils of war, because that's exactly what they would do. Of course, it's not true, but perceptions are vitally important to our long-term success in the government.

Mr. BARTON. The gentleman needs to wrap up. He's about 2 minutes over.

Mr. HALL. Well, I could go on forever.

Mr. BARTON. I know you could. That's why I'm asking that you wrap up.

Mr. HALL. I'm surprised that you would even slow me down, Mr. Chairman.

Mr. BARTON. Mr. Brown gave you his extra minute. He just did.

Mr. HALL. Just as this Nation pulled together behind the troops when they went into Iraq, we need to stay together and support this President during this transition. I have a lot of support for the President and a lot of belief in the President, not only that he's capable and honest, and he is our former Governor and a friend of mine, and a godly man, and I hope the transition is going to be short. But it's important that we take the time to do it correctly, and if we're not successful in bringing about the establishment of a stable Iraqi government, then our efforts to topple Saddam Hussein's regime may have been in vain.

Mr. Chairman, I yield back the balance of my time.

Mr. BARTON. That's pretty good for a one paragraph staff briefing, to talk for 5 minutes. That's a very good statement.

Mr. HALL. Thank you, Mr. Chairman.

Mr. BARTON. The President also did a birthday party for you, I'm told, in the Oval Office. So you and he must be pretty good friends.

Mr. HALL. Well, we are very good friends, but I would have to be truthful with you, as my fellow Texan and the chairman, that I'm not 80 years old. It's embarrassing to tell that now after they

gave me parties all over this town. But I lied to get in the Navy 55 years ago. I was flying for the Navy when I was 13.

That's my story and, by golly, I'm going to stay with it. Thank you, Mr. Chairman.

Mr. BARTON. Thank you.

Mr. Otter, do you wish to make a statement?

Mr. OTTER. I will defer.

Mr. BARTON. He defers.

Mr. HALL. Mr. Chairman?

Mr. BARTON. The gentleman from Texas.

Mr. HALL. I also want to thank Jim Barnes here from the James A. Baker Institute. It's a great institute. It is named after a great American that I thought should have been Secretary of State under the new Bush here, and I'm disappointed that he wasn't.

Thank you. I yield back.

Mr. BARTON. Does Mr. Shimkus with to make an opening statement?

Mr. SHIMKUS. No, sir.

Mr. BARTON. Does Mr. Burr wish to make an opening statement?

Mr. BURR. No, sir.

Mr. HALL. I can make another one if you would allow me——

Mr. BARTON. No, no.

Seeing no other members present, all other members will have their opening statements, if they wish, to have them put into the record.

[Additional statements submitted for the record follow:]

PREPARED STATEMENT OF HON. VITO FOSSELLA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Today's hearing examines a topic crucial to the development of post-Hussein Iraq: the UN Oil for Food Program. Allowing for the free flow of Iraqi oil into the world market, with profits directed towards the people of Iraq, is arguably the single most important initiative dictating the future of the Iraqi economy and the betterment of a historically oppressed people. However, economic prosperity cannot occur under a command and control framework formerly established to prevent a brutal dictator from building weapons of mass destruction. In a post Hussein Iraq, it is imperative we revisit and rescind antiquated regulations so that a new Iraq can prosper.

As one of our witnesses accurately states, "The Oil for Food Program was created for the purpose of stopping the regime of Saddam Hussein from acquiring funds to purchase weapons of mass destruction and further expand its traditional military might. With the fall of Saddam's regime, the purpose of this program no longer exists. It should be phased out." Not only is the program outdated, it has historically been abused through inept UN oversight. In addition to its ridiculous appointments of terrorist nations to key international committees, the UN has proven insolvent in administering a program that was supposed to provide humanitarian relief to the people of Iraq.

In testimony before the House Financial Services Committee, the Treasury Department highlighted Hussein's success in "skimming and kickbacks on oil legitimately sold through the Oil for Food Program." The Department also notes Saddam's equal victories in defrauding the Program's humanitarian purchases. In addition, testimony from the Center for Strategic and International Studies, Robert E. Ebel notes, "from the beginning of the program—Iraq awarded contracts to potentially sympathetic permanent members of the UN Security Council, primarily France, Russia, and China." Mr. Ebel goes on: "Because Iraq primarily award(ed) contracts based on politics rather than the quality of the goods, the Iraqi people have often received inferior goods, including medicines." These grave abuses all happened on the UN's watch. This alleged defender of the international community seemed more intent on financing inactive weapons inspectors than purchasing food for the Iraqi people—a cause receiving only 25% of Oil for Food funds. It is an insult to human dignity and freedom to even consider continuing the program under the auspices of an organization seemingly indifferent to atrocities against humanity.

I look forward to hearing this panel's ideas on how to gradually replace the Oil for Food Program with a stable model for Iraqi economic development, overseen by viable international financial institutions. Striving towards such a goal is a critical next step in rebuilding Iraq and the liberation of a noble people.

PREPARED STATEMENT OF HON. MIKE ROGERS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. Chairman, thank you for holding this important hearing as we discuss the future of Iraq and the current Oil for Food Program that I believe is harming the Iraqi people.

During my recent travel to Iraq, I learned first hand of the difficulty the current United Nations' Oil for Food Program is having on Iraqi citizens and to coalition efforts to rebuild the nation. From this experience, I came away with two primary reasons, in addition to those suggested at today's hearing, that the United Nations ought to end the Oil for Food Program in Iraq.

First, there are thousands of barrels of Iraqi oil in full tankers in the region ready to enter the market. However, due to the Oil for Food Program, the Iraqi people are unable to benefit from the sale of these resources, therefore this untapped source of revenue remains locked in tankers due to a bureaucracy put in place to offer relief to the Iraqi people from Saddam Hussein's cruelty, though his regime is no longer in power in Iraq.

My second concern over this program is the effect it is having on the lives of every-day Iraqi citizens. Propane, a derivative of petroleum, is a primary source of residential fuel throughout Iraq. Families use propane to cool their food, cook and heat water. In part due to the existence of the Oil for Food Program, propane is not being derived from Iraqi petroleum reserves and significant amounts of propane are currently having to be imported into the nation simply to avert a humanitarian crisis.

Mr. Chairman, thank you for again for convening this hearing. I look forward to working with you as we aim to assist Iraq and her people transition to a free state.

Mr. BARTON. We now want to welcome our panel. We have Mr. Guy Caruso, who is the Administrator for the Energy Information Administration here in Washington, DC. We have Mr. Robert Ebel, who is Director of Energy and National Security, Center for Strategic and International Studies, also here in Washington, DC. And as has just been pointed out, we have Mr. James Barnes, who is a research fellow at the James A. Baker Institute for Public Policy of Rice University in Houston, TX.

Gentleman, because we only have one panel, we're going to start with Mr. Caruso, give you such time as you may consume, but hopefully you can do it in around 7 minutes, 5 to 7 minutes, and Mr. Ebel and Mr. Barnes, but we're not going to put the clock on you because, unlike some of our hearings where we have two or three panels with five or six people, you're our witness list today so we'll give you as much time as you need to elaborate on your opening statement.

Welcome to the committee. You are now encouraged to tell us about your testimony, Mr. Caruso.

STATEMENTS OF GUY F. CARUSO, ADMINISTRATOR, ENERGY INFORMATION ADMINISTRATION, U.S. DEPARTMENT OF ENERGY; ROBERT E. EBEL, DIRECTOR, ENERGY PROGRAM, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES; AND JAMES J. BARNES, RESEARCH FELLOW, JAMES A. BAKER III INSTITUTE FOR PUBLIC POLICY, RICE UNIVERSITY

Mr. CARUSO. Thank you, Mr. Chairman, and members of the committee. I am Guy Caruso, the Administrator of the Energy Information Administration.

Mr. BARTON. You really need to speak into that microphone so we can hear you.

Mr. CARUSO. Okay. I appreciate the opportunity to appear today on this very important subject, as we have seen and heard. My focus will be on the impact of Iraq and its return to the oil market, and the outlook for the world oil market as published in the EIA "Short-Term Energy Outlook" of this month.

As you know, EIA is a policy-neutral, statistical arm, an analytical arm of the Department of Energy. We do not take policy stances, but our analysis and data is used by our Department and others in making policy decisions.

Iraq is, of course, critical to the world oil market. Following disruptions in supply over this past winter coming from Venezuela, Nigeria, and then in the spring, Iraq, the reductions in inventory is to low levels in the United States and elsewhere. We now feel that the world supply prospects over the next several months look quite good and we expect there will be an increased supply from Iraq. The pace at which it comes back, of course, is uncertain, but we are hearing very positive things from those who are now in charge of the Iraqi oil ministry.

We have seen already crude oil prices come down from the high just prior to the war, and as Chairman Tauzin mentioned, there was a great deal of uncertainty over the winter period after the Venezuelan disruption and with the anticipation of Iraq, and oil prices had reached nearly $40 a barrel on the spot market. As Chairman Tauzin mentioned, it is $28.50 today, so it's down quite a bit from the high, but clearly, still there is uncertainty.

We think the improvement that's needed to bring inventories back will take time, and crude oil prices still are anticipated to average in the $27 to $28 range in the near term, according to our latest short-term energy outlook.

OPEC producers with spare capacity, in particular Saudi Arabia, have increased production above quotas in recent months, and have made up substantially for the lost production from these disrupted areas, starting with the Venezuelan disruption through Iraq. Under our base case, we assume production from Iraq is restored toward normal levels by the end of the year, and that other oil producers, particularly OPEC members, will accommodate this return to the market over these coming months by lowering output; therefore, we do not anticipate large downward pressure on prices over this short-term period.

On April 24, OPEC ministers raised their official quotas for their members, excluding Iraq, to bring their quota back into line with what they believe their actual production should be. Their produc-

tion was running several million barrels a day above the quotas they had set in January of this year. The OPEC members are seeking a tighter compliance with their quotas and, as I mentioned, bringing production back toward the new quotas.

In our base case, we expect these measures to result in an average total OPEC crude oil production rate of about 26.7 million barrels a day over the next several quarters, and individual OPEC member countries' shares of this output level will depend upon the speed with which Iraqi production recovers and returns to the market, through whichever means is determined in the deliberations that are going on in the U.N. and elsewhere right as we speak.

Reflecting the OPEC production cutback in 2002, and the impact of the Venezuelan disruption late last year, oil inventories remain at the lower end of the normal averages we have seen now and have been tracking for the last 5 years, not only in the United States but throughout the OECD countries. So this is a global issue with respect to the oil market. Low inventories, however, are expected to recover, but slowly, over the next year.

Although low inventories remain a concern, there are several points that I believe are relevant at this time. First, the actual and projected stock levels are still higher than the record lows, and they are above the minimum estimated by the petroleum industry needed to maintain the logistical systems in a smooth fashion.

Second, the stock figures I mentioned are commercial inventories only. They exclude a substantial Strategic Petroleum Reserve of 600 million barrels of crude, and another 2 million barrels in heating oil.

Third, the refineries and, indeed, the industry's logistical system has proven once again the resiliency to deal with the kinds of disruptions we've seen and the uncertainty that we've seen. Refineries, as a result of upgrading and debottlenecking, have displayed an increasing flexibility to increase output during this time of uncertainty. Indeed, the return of Iraq would increase that flexibility.

Finally, the product imports we have received not only from Europe but from the Caribbean refineries also add to the flexibility and ability to return inventories to normal levels.

Let me conclude with some remarks about oil prices. Crude oil prices for April averaged $28 per barrel on a WTI or West Texas Intermediate basis. That's about $5 lower than in March. As the market reacts to prospects for greater supplies from Iraq, and the return of Nigerian and Venezuela to full production, we expect these prices will trend downward over the following three quarters of this year.

As I mentioned, this price of $28 is nearly $12 lower than the peak reached prior to the war. We expect stabilization and, depending on the timing of that, of course, it will depend upon the pace at which Iraq returns.

The interim head of the oil ministry of Iraq, Thamir Ghadhban, has said this week that Iraqi oil production should be about 1.5 million barrels a day by the end of June, which would enable about a million barrels a day of exports, and should return to its prewar levels of 2.5 million barrels a day by the end of the year. We also anticipate returns, as I mentioned, up to normal levels in Nigeria and in Venezuela.

So our base line estimate assumes OPEC members will cut back and accommodate this return at these levels that I mentioned, but that OPEC production will be sufficient to allow these commercial inventories that have been drawn down over the winter period to return to more normal levels. We expect over the longer term, an 18-month period, that WTI prices will fall between the $20 and $25 range that Chairman Tauzin mentioned in his opening remarks.

In the very near term, what this means is that summer gasoline prices will actually be a bit lower than we had been anticipating just a month ago. We now expect them to average about $1.46 a gallon, and that trend downward to continue.

So, with that brief overview of our short-term outlook, Mr. Chairman, I would be happy at the appropriate time to answers any questions you or the committee members may have.

[The prepared statement of Guy F. Caruso follows:]

PREPARED STATEMENT OF GUY F. CARUSO, ADMINISTRATOR, ENERGY INFORMATION ADMINISTRATION, DEPARTMENT OF ENERGY

Mr. Chairman and Members of the Committee: I appreciate the opportunity to appear before you today to summarize the world oil market outlook between now and the end of 2004. The source of these projections is the most recent release of the *Short-Term Energy Outlook,* published by the Energy Information Administration (EIA). These releases are updated monthly.

The EIA is the statutorily chartered statistical and analytical agency within the Department of Energy. We are charged with providing objective, timely, and relevant data, analysis, and projections for the use of the Department of Energy, other Government agencies, the U.S. Congress, and the public. We do not take positions on policy issues. We produce data and analysis reports that are meant to help policy makers determine energy policy. Because we have an element of statutory independence with respect to the analyses that we publish, our views are strictly those of EIA. We do not speak for the Department or for any particular point of view with respect to energy policy, and our views should not be construed as representing those of the Department or the Administration. EIA's baseline projections on energy trends are widely used by Government agencies, the private sector, and academia for their own energy analyses.

World Oil Markets. The April 24 meeting of the Organization of Petroleum Exporting Countries (OPEC) raised official quotas for members (excluding Iraq) by 0.9 million barrels per day from the previous (suspended) quota to 25.4 million barrels per day. OPEC members also sought tighter compliance with quotas, calling for production cuts of 2 million barrels per day from April levels. We expect these measures to result in an average total OPEC (including Iraq) crude oil production rate of about 26.7 million barrels per day in the second and third quarters. Individual OPEC country shares of these output levels will depend upon the speed with which Iraqi production recovers through 2003 and the extent to which Nigerian and Venezuelan production return to more normal levels (Figure 1).

Crude Oil Prices. Average crude oil prices for April fell about $5 per barrel from March averages. The market reacted to prospects for greater oil supplies from Iraq, Nigeria and Venezuela as well as OPEC's surprise increases in production quotas. For example, West Texas Intermediate (WTI) spot prices averaged about $28 per barrel in April, $5 per barrel lower than the March average, and by end-April WTI prices were $12 per barrel lower than levels reached just two months earlier in anticipation of the start of the war in Iraq (Figure 2). Prices have since stabilized as people realize that, while the war was quick, it may take several months for Iraqi oil exports to resume in large volumes. Oil markets will be watching how other OPEC members respond to the return of supplies from Iraq, Nigeria and Venezuela. EIA's baseline outlook assumes that OPEC production will be sufficient to allow commercial oil inventories in the Organization for Economic Co-operation and Development (OECD) countries to build from their current very low levels (Figure 3), but that OPEC will cut back production to accommodate the return of Iraqi oil exports. Until these inventories are rebuilt above observed 5-year lows, WTI oil futures prices should remain around current levels and then gradually slide toward about $24 per barrel by the end of 2004 as Iraqi oil exports return. These projec-

tions always assume that OPEC members will completely accommodate a return of Iraqi exports with no regard to the timing and the volumes that are produced.

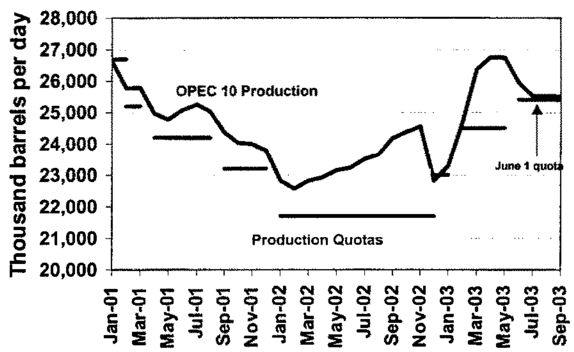
International Oil Supply. OPEC crude oil production (including Iraq) fell by 0.9 million barrels per day in April to below 27 million barrels per day, as further production increases from the OPEC 10 were not sufficient to offset the loss of Iraqi production following the war in that country. OPEC production is expected to remain at about the same level in May before declining in response to OPEC's efforts to adhere to the new production quotas in June. However, even with this cutback, year-over-year increases of 1.1 million barrels per day for OPEC crude oil production are still expected for the third quarter (albeit from low 2002 levels). This trend, combined with an expected aggregate increase in non-OPEC supply in 2003 of 1.1 million barrels per day, indicate a total world oil supply increase in 2003 of 2.5 million barrels per day, which is expected to allow for a global stock build this year.

Figure 4 depicts U.S. crude oil, motor gasoline and distillate inventories. Although reflective of the international picture as previously described, the figure shows that, for the next several months, supplies are going to be tighter than normal. Projected stocks are either at or below the lower ends of their respective 5-year average ranges. In response to low prices at the beginning of 2002, OPEC tightened production for much of that year. In addition, the impact of the Venezuelan disruptions has been relatively larger in the U.S. than elsewhere. These are likely to contribute to the tightness of stocks during the next several months even though OPEC has been raising its quotas and Venezuelan production has partially recovered from its recent lows. Inventories are expected to recover only slowly during the forecast interval. Although the low inventory levels are a source of concern, the following points should be noted.

First, the actual and projected stock series are still higher than their record lows and above the minimum estimated by the petroleum industry to minimize the likelihood of interruptions in the distribution of products to the retail level. Second, the stock figures shown here are commercial inventories only: they exclude stocks in the Strategic Petroleum Reserve, currently containing 600 million barrels, and the Federally mandated Regional Petroleum Reserve of heating oil stocks in the Northeast, currently standing at 2 million barrels. Third, refineries, as a result of several years of upgrading, have displayed increasing flexibility in increasing output during periods of low inventories. Fourth, product imports are, and will continue to be, readily available from both Caribbean and European refineries.

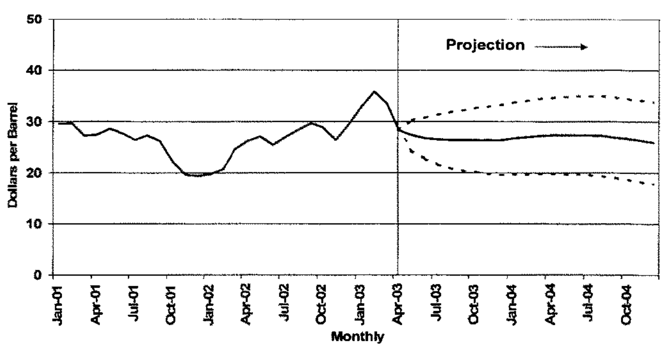
Thank you, Mr. Chairman and members of the Committee. I will be happy to answer any questions that you might have. Attached to this statement is a complete copy of the most recent *Short-Term Energy Outlook* on which this testimony is based. The *Outlook* is also accessible on the internet on the Energy Information Administration's website http://www.eia.doe.gov.

Figure 1: OPEC 10 Crude Oil Production vs Quotas, January 2000 to September 2003



OPEC 10 Production for May-December 2003 is a Projection. Source: EIA

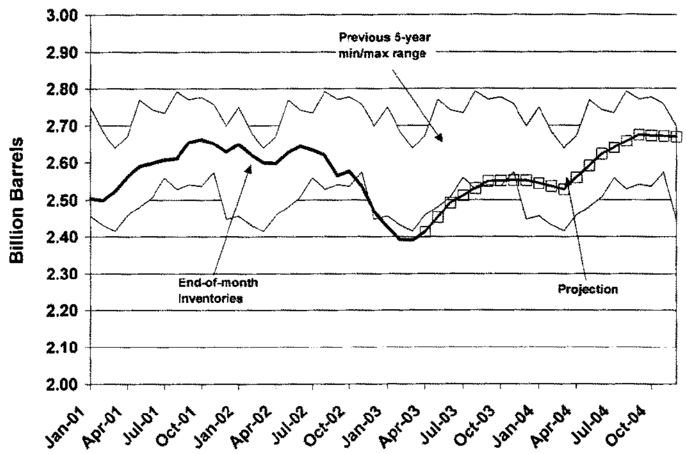
Figure 2: WTI Crude Oil Price
(Base Case and 95% Confidence Interval)



**The confidence intervals show +/- 2 standard errors based on the properties of the model. The ranges do not include the effects of major supply disruptions.*

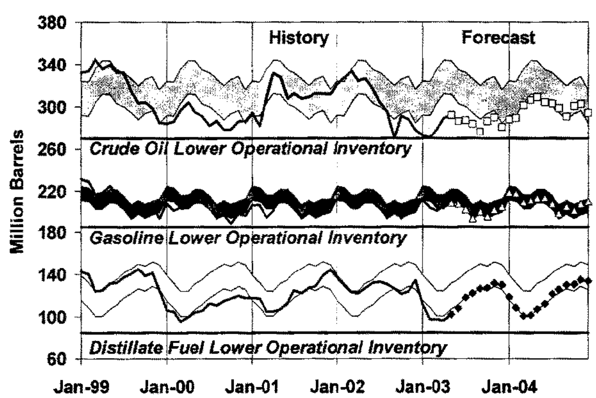
Sources: History: EIA; Projections: Short-Term Energy Outlook, May 2003.

Figure 3: OECD Commercial Oil Stocks



Sources: History: EIA; Projections: Short-Term Energy Outlook, May 2003.

Figure 4: U.S. Crude Oil, Motor Gasoline and Distillate Stocks



NOTE: Colored Bands are Normal Stock Ranges

Sources: History: EIA; Projections: Short-Term Energy Outlook, May 2003.

Mr. BARTON. Thank you.

Mr. Ebel, we will recognize you for such time as you may consume.

STATEMENT OF ROBERT E. EBEL

Mr. EBEL. Thank you very much, Mr. Chairman.

Mr. Chairman, my name is Robert Ebel. I direct the Energy Program for the Center for Strategic and International Studies. I want to thank you for the opportunity to speak on the United Nations Oil for Food Program, and to comment on its effectiveness, its impact on oil markets, and whether it should be continued.

Resolution 986 of the United Nations Security Council, passed in 1995, authorized the export of Iraqi oil, with the revenues earned to be spent to meet the humanitarian needs of the Iraqi people. This approach became known as the Oil for Food Program.

The program, in effect, did not limit Iraqi oil sales; rather, the limitation was the Iraqi producing capacity, and I would add that that producing capacity has been declining by the equivalent of about 100 barrels per day every year.

According to a recent CSI report, since the program began in December 1996, Iraq has exported 3.3 billion barrels of oil valued at $62 billion. The report notes that over a quarter of the oil revenue pays for compensation costs associated with the Gulf War, the U.N. administrative costs, and the costs of U.N. weapons inspectors. Of the funds provided to Iraq out of the U.N. escrow account, only 25 percent have been allocated to purchasing food. The remaining 75 percent were allocated across 23 different sectors and involved at least 13 different Iraqi government ministries. The report also notes that the Sanctions Committee had approved just $3.6 billion in oil industry spare parts.

Again referencing the CSI report, from the beginning of the program until mid-2000, Iraq awarded contracts to potentially sympathetic permanent members of the U.N. Security Council, primarily France, Russia and China. In that year of 2000, Iraq began to focus on strengthening ties with its neighbors. As public opinion against sanctions grew and oil revenue increased, Iraq increasingly favored Egypt, the United Arab Emirates and Jordan for supply contracts. But because Iraq primarily awards contracts based on politics rather than the quality of the goods, the Iraqi people have often received inferior goods, including inferior medicines.

Mr. Chairman, assessing the Oil for Food Program is a somewhat difficult task, complicated by the fact that the United Nations does not publish contract or supplier data, but other reports indicate, not surprisingly, that the two top suppliers to Iraq under approved contracts in the program have been France and Russia.

The Oil for Food Program was shut down by military intervention by the coalition forces, but then resumed under the supervision of the U.N. Secretary General, spending funds already accumulated. Food and other aid are being provided by funds earned from earlier oil sales, but deliveries have been discouragingly slow, largely because of bureaucratic entanglements.

The program is scheduled to end, as we have noted, on June 3, but a resolution just introduced by the United States, and supported by Great Britain and Spain, proposes that the program be

phased out over a period of 4 months. The resolution foresees continuation of the delivery of priority civilian goods under contracts already approved.

While the volumes of oil exported from Iraq under the Oil for Food Program may appear substantial, the role these volumes have played in the world oil market have not been pivotal. Taking into consideration the oil smuggled out of Iraq, probably on the order of 400,000 barrels per day, equal to Iraqi oil consumption itself, Iraqi oil was accounting for just some 3 percent of total world oil supply.

The run up in the world oil price proceeding military intervention should not be attributed solely to the prospect of Iraqi oil being lost. Rather, the price run up may be traced to the prospect that a worst case scenario might develop when military intervention in Iraq came about a worst case scenario under which we would have not only the loss of Iraqi oil, but massive numbers of oil wells set afire, plus you would have sabotage in Saudi Arabia and in Kuwait by supporters of Saddam, in turn taking additional oil volumes off the market. Of course, Venezuela oil exports had not yet returned to normal.

Mr. Chairman, my reading of the resolution submitted to the Security Council gives me the strong impression that the coalition is exercising its powers and responsibilities under the Geneva Convention. Stated simply, an occupying power can export Iraqi oil and use the income for humanitarian purposes inside Iraq, and additionally, can use the income to pay for the costs of occupation, but not the costs of the war. Under the Oil for Food Program, legal title to the oil was guaranteed by the United Nations, whereas the resolution offered, if approved by the Security Council, gives the occupying powers the legal title that can be transferred to potential buyers.

Mr. Chairman, I have a longer statement that examines the position of Iraqi oil today and tomorrow, and I ask your permission to submit that statement for the record.

Mr. BARTON. Without objection.

Mr. EBEL. That concludes my oral statement, Mr. Chairman, and I look forward to any questions you or your members may have.

[The prepared statement of Robert E. Ebel follows:]

PREPARED STATEMENT OF ROBERT E. EBEL, DIRECTOR, ENERGY PROGRAM, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES

IRAQI OIL: TODAY AND TOMORROW

Now that the United States can be characterized no longer as a liberating force but instead an occupying force, how can the Iraqi oil industry be characterized? The following summarizes where matters currently stand.

The southern and northern oil fields are in the good hands of the coalition forces. Both major oil fields, north and south, made it through the fighting with limited damage. Iraqi forces had set afire 7 wells in the south, just one in the north, far less than had been anticipated. Damage to other oil-related infrastructure, such as pipelines, refineries, and storage tanks also appear minimal. In sum, the coalition strategy to seize and isolate the oil fields in the very stages of the conflict, to protect the infrastructure and prevent the Iraqi military from repeating what had happened to the Kuwaiti oil fields, proved very successful.

Unfortunately, destruction from continued looting has not been contained. Facilities have been damaged or stolen and oil field documentation destroyed. Much of the supporting systems are gone. Equipment and machinery has been lost. Impor-

tantly, employees are finding it difficult to get to their former place of work, either gasoline is not available or the means of transportation have been stolen.

Communications remain difficult. In many instances, a return to normal will reflect the availability of electricity—not just to run the oil pumps and pipelines, but as a way of reassuring the population of a return to normal activities.

Shortly after the intervention, all oil wells were shut in. The Southwestern Division of the Army Corps of Engineers took on that responsibility, as well as responsibility for closing the oil and gas separation plants and pipelines. Wellheads were found to be in reasonably good shape, but other infrastructure requires attention. The task of the Corps is to return the oil sector to its pre-crisis position, ready to produce and to export.

Limited production has now begun at both the northern and southern fields, with the crude to be refined for the domestic market. Petroleum products continue in short supply and the distribution system is not yet fully operational. LPG—liquefied petroleum gas—is a major source of fuel for cooking and heating. LPG in turn is based on natural gas produced in association with crude oil, but because only minimal volumes of oil are being produced, shortages of LPG appear around the country.

It is very obvious that much rehabilitation must be undertaken to reverse the effect on the oil sector of three wars and years of sanctions. For example, the Basra representative of the Iraqi Oil Ministry has estimated that just 25 percent to 30 percent of the Rumaila oil field is in good condition. Any industry, neglected and underfunded for more than 20 years, bearing the impact of three wars and 12 years of UN sanctions, would suffer greatly, and the oil sector is no exception.

Clearly, those Iraqis who have been working in the oil fields for the past years are asking that the United States recognize their expertise and authority. After all, they argue, we know the oilfields better by far than the Americans and are ready to work. At the same time, locals are not apt to offer a particularly warm welcome to those Iraqis who have been in exile the past years and who seek to return, hopefully to senior positions. Where have you been, while we have been suffering, they would ask.

UN "Oil-for-Food" Program

Resolution 986 of the United Nations Security Council, passed in 1995, authorized the export of Iraqi oil, with the revenues earned to be spent to meet the humanitarian needs of the Iraqi people. This approach became known as the "Oil-for-Food" program.

According to the CSIS report *A Wiser Peace: An Action Strategy for a Post-Conflict Iraq, Supplement II: An overview of the Oil-for-Food Program,* dated February 14, 2003, since the program began in December 1996 Iraq has exported 3.3 billion barrels of oil valued at $62 billion. The report notes that over a quarter of the oil revenue pays for compensation costs associated with the Gulf War, UN administrative costs, and the cost of UN weapons inspectors. Of the funds provided to Iraq out of the UN escrow account, only 25 percent have been allocated to purchasing food. The remaining 75 percent were allocated across 23 different sectors and involved at least 13 Iraqi government ministries.

The report also notes that the Sanctions Committee had approved $42 billion in humanitarian supply contracts, including $3.6 billion in oil industry spare parts. Of these goods, $26 billion had been delivered and a further $10.8 billion were in the production and delivery pipeline.

Again referencing the CSIS report, from the beginning of the program until mid-2000, Iraq awarded contracts to potentially sympathetic permanent members of the UN Security Council, primarily France, Russia, and China. In 2000, Iraq began to focus on strengthening ties with its neighbors. As public opinion against sanctions grew and oil revenue increased, Iraq increasingly favored Egypt, the United Arab Emirates and Jordan for supply contracts. Because Iraq primarily awards contracts based on politics rather than the quality of the goods, the Iraqi people have often received inferior goods, including medicines.

The UN "Oil for Food" program was shut down upon military intervention by coalition forces but then resumed under the supervision of the UN Secretary-General, spending funds already accumulated. Food and other aid are being provided by funds earned from earlier oil sales but deliveries have been discouragingly slow, largely because of bureaucratic entanglements.

The program is scheduled to end on June 3, but a resolution just introduced by the United States, and supported by Great Britain and Spain, proposes instead that the program be phased out over a period of four months.

The coalition had spoken of establishing an Interim Iraqi Authority, but Iraqi delegates have chosen to term a new governing body as a "transitional government," reflecting their desire to move more quickly than an interim authority might imply.

The referenced resolution gives the occupying powers (that is, the United States and Britain) the power to sell Iraqi oil, with the income to be placed in an administered trust, with appropriate oversight.

It appears that an advisory committee is to be set up, to be headed by Philip Carroll, formerly of Shell Oil. This advisory committee, where Iraqis are to hold at least a plurality, will relate to the Iraqi Oil Ministry in much the same way as a board of directors functions in a corporate structure. The senior person in the Ministry would report in turn to the advisory committee.

But in all this, the United States must take great care in conducting itself in a way that does not allow critics of the war to be able to say, "See, I told you so, it really was all about oil."

Rebuilding the Oil Sector. What Will It Take?

Until experts have had the opportunity to closely inspect the oil refineries, the pipelines, the oil and gas separation plants, storage farms, ports of export, the general product distribution network, and the oil fields themselves, including a well-by-well approach, only guesses can be made as to what it will take, in terms of time and money, to restore the Iraqi oil sector to a normal state.

Saybolt International, a Dutch firm, has visited Iraq on two occasions—March 1998 and January 2000—at the request of the United Nations, to evaluate the health of the Iraqi oil sector. Their findings, in both instances, underscored the sector's lamentable state. Observations from the report of the January 2000 visit noted a continuing deterioration.

The group has to report that the previously noted lamentable state of the Iraqi oil industry has not improved. It is apparent that the decline in the condition of all sectors . . . continues, and is accelerating in some cases. This trend will continue, and the ability . . . to sustain the current reduced production levels will be seriously compromised, until effective action is taken to reverse the situation.

Past shortages of spare parts, a need to maximize income that led to overproduction of the major fields, the absence of modern technology, closing then opening oil wells damages the producing reservoir, and water encroachment define an oil producing sector whose prospects of any early return to a leading role in the world oil market are measurably dim. On average it appears that the oil producing capacity of Iraq has been declining by 100,000 b/d annually. That decline first has to be halted then reversed if growth is to be resumed.

But what defines a "normal state" of the Iraqi oil sector? Was 1979 the last normal year for the industry, just preceding the war with Iran, when production hit its all-time peak of 3.5 million b/d? Or was it 1990, when crude oil output, having fallen because of the war with Iran to barely one million b/d, had by then returned to 3 million b/d, only to decline sharply once again following the Iraqi invasion of Kuwait?

The initial effort will be focused on raising oil production to 3.2 to 3.5 million b/d and that may require 1.5 to 2 years and an expenditure of at least $5 billion if not more. Then, attention can be directed on plans for further expansion, to a stated 6 million b/d. To accomplish that may require $35 to $40 billion, and at least 5 to 6 years, if not longer, reflecting what detailed assessments of the individual segments of the oil industry find.

Who Owns the Oil? Who Can Sell It?

How soon might exports resume? Based on present field conditions, exports might resume within several months, possibly a bit sooner from the north, if not further delayed because of the damage inflicted by looters.

But then, other considerations arise. Who owns the oil, who has title to it? Who would buy the oil, absent, say, UN approval? No oil tanker owner could be expected to load up, absent a title guarantee.

Can Iraqi oil be sold if the UN sanctions remain in place? Under the UN "Oil for Food" program, it was the United Nations that gave legal title to the oil. UN sanctions prohibit oil exports except under this program. But, as noted, the "Oil for Food" program comes to an end on June 3.

The referenced U.S. resolution addresses this question by * * *. The UN has stated that no Iraqi oil can be exported unless there is a new authority in Iraq to serve as the legal agent for the oil, and until the UN Security Council recognizes that new authority. Presuming a recognized interim authority is established and oil exports resume, but then, what happens to the oil revenue? How can its distribution be monitored?

As noted, production of crude oil has been resumed on a limited basis, with the crude delivered to refineries to produce fuels needed by the local economy. Are the refineries paying for the crude oil they receive? If so, at what price, and what hap-

pens to that income? Where does it go? Most probably the United States believes it controls the industry and thus the revenues and will continue to do so until an interim authority is in place. Once that happens, the funds could be placed in trust with the Iraqi Central Bank, and a designated international financial institution could monitor distribution of these funds. But, does monitoring also provide an input into how the funds are spent?

What About the Geneva Convention?

A number of interested observers make the interpretation that, under the Geneva Convention, the occupying power has the right to sell the oil and to use the income for the restoration of order and the benefit of the Iraqi people. Not all would agree. Nonetheless, is the United States today an occupying power, having shifted from that of a liberating power? Apparently so, and that means the Geneva Convention can apply.

I

Suzanne Nossel, a former senior advisor to U.N. Ambassador Richard C. Holbrooke, writing in the May-June 2003 issue of *Legal Affairs,* asks the question: can the law of occupation, long disputed and then largely disregarded, be useful in Iraq? She then answers by noting that the law of occupation could provide cover for more controversial maneuvers. Taking over the oil fields, rebuilding them, and even upping production could be justified if the proceeds were used to accomplish the United States' purported aim, that is, channeling the reserves to meet the people's needs. In her judgment, as long as the Administration sticks to using the oil to foster reconstruction—and scrupulously avoids favoring American oil interests above those of others—taking control would be justified and even expected.

She concludes by stating that if in administering the oil fields the United States were found to favor American oil companies over existing concessions belonging to France or Russia, for example, the American action would be judged an unwarranted departure from the status quo, invalid under the Geneva conventions.

II

An analysis provided by IHL Research Initiative (under the Harvard Program on Humanitarian Policy and Conflict Research) underscored that the law of occupation is perhaps one of the oldest and today the most developed branch of international humanitarian law (IHL). The law of occupation applies whenever, during an armed conflict, a territory and its population comes under control of the enemy of the State authorities previously controlling that territory. In the case of Iraq, obligations of the occupying power, among other things, extend to the administration of the Iraqi resources for the benefit of its people.

The analysis concludes with the following:

> "If Iraqi oil wells were government-owned, the U.S. may administer them and sell the oil. According to some opinions, it may use the proceeds not only for the benefits of the local population, but also, similar to levies, to cover the cost of the occupation (but not of the whole war)."

Importantly, the analysis underscores that occupation ends whenever one of the conditions of occupation is no longer met. That is, when an agreement has been signed between the parties at conflict bringing to an end the armed conflict. Or, foreign military forces have withdrawn from enemy territory or are no longer exerting control over the population of that territory.

III

Prof. Mary Ellen O'Connell, Moritz School of Law, Ohio State University, offering her opinion as a guest columnist in the *Jurist* (a publication of the University of Pittsburgh School of Law), writes that "occupants are required to manage resources under the law of usufruct.HR, art. 55. That law calls for managing resources so as to prevent waste. If profits accrued from such management, they may be used to pay for the occupying power's costs for local administration. An occupying power may not enrich itself from the occupied territory's resources. With particular relevance to Iraq, the United States has taken the position in the past that an occupant may not award new oil development concessions."

IV

R. Dobie Langenkamp, professor of law and director of the National Energy-Environment Law & Policy Institute at the University of Tulsa, in an interview with *The Oil and Gas Journal* (February 3, 2003), offered the following observation.

"Under international laws governing warfare going back to the Hague Convention of 1907 and the Geneva Conventions of 1929 and 1946, the U.S. and its allies would have the right to produce Iraq's existing oil and gas wells and to use the proceeds to pay the costs of occupation but not the costs of the war itself."

Professor Langenkamp added that:

- Prolonged use of troops or foreign contractors to replace Iraqi workers is forbidden by international law;
- The law prohibits unnecessary damage to Iraq's wells, which means they can't be produced so rapidly or carelessly as to damage formations;
- The properties must be returned to the proper government authority in reasonable condition;
- Iraq's current production likely can be increased through workovers and by drilling existing wells deeper or through extensions to new formations. (The U.S. Department of State is on record as claiming that drilling new wells in a military-occupied territory is unlawful.)

Contract Status

Accepting the role of an occupying power raises an associated question. What is the status of those oil contracts that have been signed with Russia and with China? Will they be honored? Under international law, it would seem that these rights should be protected, in that contract sanctity is maintained in the event of a change in government.

Russia has been very vocal in its effort to preserve the contract it has signed with Iraq to develop the West Qurna oil field. At its peak this field should be able to produce 600,000 to 700,000 b/d, a prize that will not be given up quietly. China, conversely, has been quiet and has not yet taken a position publicly. But the field it would develop is comparatively small, with a potential on the order of 60,000 b/d.

Several options are available. The interim Iraqi government could just review the contract terms, to determine whether these terms were acceptable, that they met the interests of the Iraqi people. Now, given the course of events in Iraq, the Iraqi authority might not be so charitable, and might be prepared to tear up all contracts, based on the fact they were concluded with a regime that in no sense represented the Iraqi people.

There most likely will be no contracts let to foreign oil companies during the coming transition period. Simply because the investor runs the risk that a contract signed during that period might be rejected by whatever form of government is put in place at the end of the transition period.

What Happens to the Oil Revenues?

What happens to the revenue when oil exports resume? How to safeguard that revenue? Who will determine how these revenues are spent? Will the "Oil for Food" program, slightly tweaked to reflect changing circumstances, still be in play, or might some kind of substitute take its place? After all, it is Iraqi oil, owned by the Iraqi people. Shouldn't they have the final say in all this?

Can a means be devised whereby citizens of Iraq will be able to share immediately in the oil wealth of the country? A cash dividend perhaps, especially helpful to the economy at this time of stress, but also giving the population a stake in the future of the oil sector, an interest in seeing that it prospers, for, if it does, then they will too.

Most oil exporting nations, despite good intentions, end up catching the dreaded "Dutch disease." That is, the economy becomes overly dependent on the sale of a single commodity—oil. When oil prices are high, the economy flourishes and there is little or no effort to diversify away from oil. But at some point oil prices will decline and when that occurs, the failure to diversify becomes apparent as financial stresses emerge, often followed by civil unrest.

How to avoid such circumstances?

A variety of approaches are available for consideration. One attractive approach would be the creation of a stabilization fund. Designated oil-related income would be allocated to a stabilization fund when the world oil price exceeded, say, $20 per barrel. If the per barrel price declined below $20, then funds would be withdrawn in amounts to offset losses to the national budget. Dividends deriving from investments made by the fund would then be passed on to individual Iraqis, comparable to corporate dividends payable to shareholders.

The Department of State appears to favor an oil revenue sharing arrangement similar to that adopted by Alaska. Stated simply, a portion of the state's oil royalty

revenue is placed into a permanent fund, and dividends from this account are paid out annually.

Transparency and adequate public oversight are essential for whatever arrangement might be chosen. Would a "new" Iraqi government be comfortable and accepting of the needed transparency and oversight?

Privatization

There really is no hope of rebuilding Iraq if foreign capital is not forthcoming. Thus, a key objective is to secure the large, rapid inflow of investment in all sectors. Reality, in turn, requires privatization.

If the indicated production goal of 6 million b/d is to be attained as quickly as possible, the requirement for new investment—estimated to fall between $35 to $40 billion—will far exceed the capabilities of the oil sector itself. Where might the investment be found? In the pocketbooks of foreign oil companies. But that means privatization, and a move to privatize might run counter to the nationalistic feelings of the Iraqi people. Thus, if privatization is deemed necessary for the future of the oil sector, then the matter will have to be handled very carefully.

Looking Ahead

There are two objectives regarding the future of Iraqi oil. First, to return production to a level between 3.2 to 3.5 million b/d. To do so may require 1.5 to 2 years and an expenditure of between $5 to $7 billion, depending in part on what an assessment of the operating fields at Rumaila and Kirkuk finds. It is generally thought that these fields may not be in the best of shape, with little investment over the years and facing a continuing lack of spare parts, plus probably having been over-produced, with water encroachment now limiting recovery levels.

There is a particular concern regarding the Kirkuk field, where the quality of the crude oil has been somewhat degraded, as surplus fuel oil has been re-injected into the producing horizons.

If production can be raised to 3.5 million b/d, that would match the level of the last normal year for the industry, reached in 1979. Since then, three wars and some 12 years of sanctions have gotten in the way.

Then, to embark on an effort to expand production to not less than 6 million b/d. Proven reserves clearly would more than support this higher level. But, will the market? At the moment, production sharing agreements seem to be the acceptable approach to securing foreign investment. But, given the attraction of Iraqi oil—good quality, low production costs, easy access to ports of export—and with this attraction known to both sides, the terms offered by Iraq likely will be pretty tough.

Circumstances would seem to dictate that Iraqi oil production might reach 4 to 4.5 million b/d by the end of this decade, clearly not the flood that some have speculated.

OPEC: Stay or Leave?

Iraq was a founding member of OPEC. Indeed, the organizational meeting was held in Baghdad. The question now asked is: Does Iraq keep its membership in OPEC, or does it leave?

For the interim, Iraq will keep its membership, as nothing would be gained by leaving. But it is quite possible that in the future, when continued membership might be perceived as constraining plans for growth in production and exports, then departure might be addressed. When might that come about? Perhaps not this decade, but national interests will be the ultimate decision-maker.

How Far Will $20 Billion Go?

When Iraq returns to its prewar level of production and exports, and assuming a price per barrel of $25, how much might the country earn from these exports? About $20 billion. Of that, a portion, possibly 20 percent, will have to be returned to the oil sector to cover costs of production, pipeline transport to a port of export, and storage at the port, leaving, say, $15 billion. That sum falls far short of covering rebuilding not just the oil sector, but the entire infrastructure of the country—roads, hospitals, schools, housing, and the like.

Moreover, how to address the debt that Iraq has accumulated, a debt exceeding some $320 billion ($199 billion in Gulf War compensation claims and a foreign debt of $127 billion)? Clearly, to the "new" Iraqis, taking on these obligations will be regarded as unacceptable, and requests for cancellation and rescheduling likely will come forward early on.

Mr. BARTON. Thank you, sir.

We now would like to hear from Mr. Barnes.

STATEMENT OF JAMES J. BARNES

Mr. BARNES. My name is Joe Barnes. I'm a research fellow at the Baker Institute for Public Policy at Rice University in Houston.

Mr. Chairman and members of the subcommittee, ladies and gentlemen, thank you very much for inviting me here today. I, too, have a somewhat lengthier statement, but I will just make a few points, if I might.

I will not specifically address the elements of the U.S. draft resolution currently before the United Nations Security Council, but my comments I think will make clear that I support many of the drafts resolution's main features related to the Oil for Food Program.

I would like to make the following points. Whatever decisions are taken on the Oil for Food Program and the resumption of Iraqi oil exports, the goal must be the prompt and adequate supply of humanitarian and reconstruction aid to the Iraqi people. Their interest must be paramount to their current and future well-being that is at stake. Any proposal on handling Iraq's oil exports must be judged by this light.

Second, the Oil for Food Program was created for the purpose of providing vital humanitarian and other supplies to the Iraqi people while restraining the regime of Saddam Hussein from acquiring funds to purchase weapons of mass destruction or other traditional military equipment. With the fall of Saddam's regime, the fundamental purpose of the program no longer exists. It should be phased out.

Iraq faces daunting security and structural challenges in its efforts to resume uninterrupted oil exports. It seems possible that an interim Iraqi government or authority could be in place before or soon after oil starts to flow in significant amounts. The United States should make it a priority to help set up an interim government that would be able to handle the resumption of oil sales, while encouraging an international effort to provide relief until oil starts to flow in significant amounts.

Financial oversight of oil revenue is best handled by multinational agencies such as the IMF and the World Bank. The Fund will presumably be involved with Iraq in such critical matters as rescheduling debt in any case. The Bank will no doubt be called upon to play an important part of Iraqi reconstruction.

I note that the administration supports an oversight function for the Fund and the Bank, as well as the United Nations, in its proposal to create an Iraqi assistance fund to serve as a repository for the country's oil revenues.

Significant funds remain in the escrow accounts under the current U.N. Oil for Food Program. These funds need to be disbursed to pay for emergency aid to Iraq. It might be passed to permit the U.N. to continue managing these funds on an expedited basis until the balance is liquidated. I note again that the U.S. proposal at the U.N. suggests something along these lines.

The Iraqi oil sector possesses a large number of highly competent professionals and technicians, very few of whom are tainted by direct association with human rights abuses under Saddam's regime. These individuals can be relied upon to conduct the sales and mar-

keting of oil by the country and to manage the operations, maintenance, repair and reconstruction of Iraq's petroleum sector.

Comprehensive involvement of Iraq's oil technocracy is extremely important for pragmatic and political reasons. Many senior members of Iraq's oil elite are nationalistic in their attitudes. They, like many other observers in Iraq and around the world, will be extremely sensitive to any suggestion that the United States or our coalition partners view Iraq's oil resources as "spoils of war."

Last, the coalition has a vital short- to medium-term role to play in providing security to Iraqi professionals and technicians working in the oil sector, as well as protecting the actual fields and key infrastructure. The lack of security for these workers and their families apparently represents a major impediment to resuming normal operations in the Iraqi oil sector today.

Thank you.

[The prepared statement of James J. Barnes follows:]

PREPARED STATEMENT OF JAMES J. BARNES, RESEARCH FELLOW, JAMES A. BAKER III INSTITUTE FOR PUBLIC POLICY, RICE UNIVERSITY

Mr. Chairman, members of the subcommittee, ladies and gentlemen: Let me begin by commending the subcommittee for holding hearings on the UN's Oil for Food Program. It is a subject that is both important and—particularly given the Administration's efforts to seek another UN Security Council resolution dealing in large part with the program—timely.

Out the outset let me stress that my views do not necessarily reflect those of the Baker Institute for Public Policy; they are entirely my own. I would, however, like to thank my colleague at the institute, Amy Myers Jaffe, for her extensive and invaluable assistance in preparing this testimony.

In my remarks today, I will outline the rationale for the creation of the Oil for Food Program under UN auspices, explain how the program functioned, discuss the impact the program had on the stability of international oil markets, and conclude with some closing observations on the proper course for handling the future sales of Iraqi oil. I will not specifically address the elements of the US draft resolution currently being discussed at the UN Security Council. But my comments will make clear that I support many of the draft resolution's main features related to the Oil for Food Program.

Before I turn to these details, I would like to first emphasize several critical points that will, I hope, be useful at the subcommittee considers this important issue.

Key Points

1) Whatever decisions are taken on the Oil for Food Program and the resumption of Iraqi oil exports, the goal must be the prompt and adequate supply of humanitarian and reconstruction aid to the Iraqi people. Their interests must be paramount; it is the current and future well-being of Iraqis, after all, which is at stake. Any proposal on handling Iraq's oil exports must be judged in this light.

2) The Oil for Food Program was created for the purpose of stopping the regime of Saddam Hussein from acquiring funds to purchase weapons of mass destruction and further expand its traditional military might. With the fall of Saddam's regime, the purpose to this program no longer exists. It should be phased out.

3) Iraq faces daunting security and structural challenges in its efforts to resume uninterrupted oil exports. It seems possible that an interim Iraqi government or authority could be in place before oil starts to flow in significant amounts. The United States should make it a priority to help set up an interim government that would be able to handle a resumption of oil sales, while encouraging an international effort to provide relief until oil begins to flow.

4) Oversight of oil revenue is best handled by multinational agencies such as the International Monetary Fund and World Bank. The Fund will presumably be involved in such critical matters as rescheduling Iraqi debt in any case; the Bank will no doubt be called upon to play an important role in Iraqi reconstruction. I note that the Administration supports an oversight function for the Fund and the Bank (as well as the UN) in its proposal to create an "Iraqi Assistance Fund" to serve as a repository for the country's oil revenues.

5) Significant funds remain in the escrow accounts under the current UN Oil for Food Program. These funds need to be disbursed to pay for emergency aid to Iraq. It might be best to permit the UN to continue managing these funds, on an expedited and transparent basis, until the balance is liquidated. I note again that the US proposal at the UN suggests something along these lines.

6) The Iraqi oil sector possesses a large number of highly competent professionals and technicians, almost all untainted by association with human rights abuses under Saddam's regime. These individuals can be relied upon to conduct the sales and marketing of oil by the country and to manage the operations, maintenance, repair and reconstruction of Iraq's petroleum sector. Comprehensive involvement of Iraq's oil technocracy is extremely important for practical and political reasons. Many senior members of Iraq's oil elite are nationalistic in their attitudes. They—like many other observers in Iraq and around the world—will be extremely sensitive to any suggestion that the United States or our coalition partners view Iraq's oil resources as "the spoils of war."

7) The coalition has a vital short- to medium-term role to play in providing security to Iraqi professionals and technicians working in the oil sector, as well as protecting the actual fields and key infrastructure. The lack of security for these workers and their families represents a major impediment to resuming normal operations in the Iraqi oil sector today.

Background

UN Resolution No. 986, which was adopted by the Security Council in April 1995 and finally implemented in December 1996, enabled Baghdad to sell specified dollar amounts of crude oil over six-month periods, in part for the purchase of humanitarian supplies for distribution in Iraq under UN supervision. In December 1999, the Security Council voted to remove limits on the amount of oil Iraq could export as Baghdad's production capacity was enabling it to reach the previously established sales ceiling of $5.2 billion per six-month period. Roughly 72% of the total revenues from the Oil for Food program have been allocated toward humanitarian needs. The remaining proceeds help pay compensation for Gulf War victims (25% since December 2000), pipeline transit fees to Turkey, spare parts and maintenance for the oil sector, funding for UNMOVIC and administrative and operational costs for the United Nations.

UN supervision included monitoring of Iraq's crude oil supply contracts to ensure at-the-market pricing (to discourage side, kickback payments); monitoring export shipping volumes at Iraq's main port of Mina Al-Bakr and at the Turkish pipeline outlet at Ceyhan (to discourage smuggling); management of the escrow account for oil revenue receipts and humanitarian aid disbursements; and oversight of contracting for the importation of goods to ensure that no banned materials reached Iraq.

Oil sales activities under Oil for Food were handled directly by members of the Iraqi government State Oil Marketing Organization (SOMO) and had no UN involvement. Rights to sell the oil were retained by the sovereign Iraqi state and not transferred to the United Nations. The rights to exported oil were transferred directly from SOMO to the purchaser. Iraqi government officials also selected the goods and vendors for the importation of humanitarian assistance. The UN's role was limited to monitoring these activities to ensure that no transactions occurred that would allow Iraq to continue to fund and develop its weapons program.

Since the Oil for Food Program first went into effect on December 10, 1996, Baghdad has exported around 3.4 billion barrels of oil under UN supervision worth about $64 billion dollars. About $44 billion worth of humanitarian supply contracts including $3.8 billion worth of oil spare parts and equipment, have been approved by the 661 Sanctions Committee and "fast-tracked" by the UN Office of the Iraq Programme. In mid-2002, around $22.6 billion worth of humanitarian supplies and equipment had actually been delivered to Iraq, including $1.4 billion worth of oil industry equipment, while another $10.5 billion worth of humanitarian supplies, including $1.7 billion worth of oil industry equipment, were in the production and delivery process. The UN says that about $10.1 billion worth of supplies are currently in the pipeline.

Broadly speaking, the program was successful in depriving the Hussein regime of large revenues to use to fund weapons and military programs. However, government and industry estimates suggest that Iraq earned over $8 billion in revenues since 1997 through illegal smuggling and hidden surcharges.

It is ludicrous, given the US and coalition presence in Iraq, to suggest that Iraqi oil revenues will now be used to acquire weapons of mass destruction. In addition, there is no precedent for the United Nations to monitor national oil sales to prevent "corruption." It is my opinion that issues of transparency and accountability in han-

dling Iraq's oil revenues would best be handled by multinational institutions normally charged with financial matters and economic development—notably the International Monetary Fund and the World Bank.

Over the course of its existence, the politics of the Oil for Food program has served as a key driver of oil price volatility. Concerns about the reliability of Iraq's UN-monitored oil exports were a major factor causing swings in the market in recent years. Periods of program evaluation and renewal debate prompted severe disturbances in international oil prices as oil traders worried that unsettled UN politics might result in a sudden—albeit temporary—cut-off of Iraqi oil exports. Saddam Hussein also demonstrated a willingness to use the "oil weapon," sporadically refusing to continue to participate in Oil for Food for weeks or months in order to manipulate oil markets and display his personal power. It is important that Iraq's new oil regime be designed to create a transparent, predictable environment where changes in the flow of exports do not disrupt markets and where a UN process cannot influence the stability of those flows.

Ironically, Saddam Hussein's political use of Iraq's petroleum sector did not result in the kind of damage to oil field capacity that might have been expected. This was due in large part to the capability and dedication of Iraq's oil professionals, who managed remarkably well in an atmosphere marked by Saddam's Hussein's volatile interventions, an almost complete lack of foreign investment, and a crippling shortage of spare parts and maintenance equipment. This bodes well for the future prospects of the Iraqi industry. Failure to utilize Iraq's oil professionals in managing the production and marketing of the country's petroleum could result in a serious backlash in Iraq and a public relations problem around the world. Given suspicions (pervasive, if unfounded) that the United States invaded Iraq to control its oil, our actions in regard to the Iraqi oil sector must be above reproach.

Mr. BARTON. Thank you.

The Chair is going to recognize Mr. Boucher first, because he has another appointment, very quickly, 5 minutes for questions.

Mr. BOUCHER. Thank you very much, Mr. Chairman.

I want to thank the witnesses for taking their time this morning to inform us on this timely matter. My questions are going to be very brief.

Mr. Ebel, in the course of your testimony, you alluded to the potential necessity for the United Nations to pass some kind of resolution that empowers the United States, the United Kingdom, as occupying powers to dispose of oil, to produce oil and to sell it on world markets. I guess the theory of that is that any company that might want to buy the oil would be reluctant to do so if it's not sure who has title, and a U.N. resolution under international law could confer that title.

Mr. EBEL. That's correct.

Mr. BOUCHER. Does that appropriately state the circumstance, and if so——

Mr. EBEL. Yes, it does.

Mr. BOUCHER. And if so, my question to you is, how essential, therefore, is some action by the United Nations to the ability of the United States to produce and sell oil from Iraq?

Mr. EBEL. Oil could be exported from Iraq tomorrow. The storage tanks at the port of Ceyhan on the Mediterranean are full. Unfortunately, no buyer is going to take on that oil until he can assure himself and his corporate lawyers back home that he will have an uncontested legal title to the oil that he would purchase.

There is no entity today to give legal title to the oil. The United Nations did it under the Oil for Food Program, and under the resolution, the way I read the resolution, the way I read the powers of the Geneva Convention, the occupying powers, which in this instance would be the United States and Great Britain, could then transfer legal title to a potential buyer. But until that resolution

is passed, there is not going to be any oil exported from the United States, in my judgment, because——

Mr. BARTON. From Iraq, you mean?

Mr. EBEL. I'm sorry, from Iraq, because——

Mr. BARTON. We're not exporting for the United States, either.

Mr. EBEL. No, we're not. I'm sorry. Because there is no potential buyer, and no tanker owner would weigh in.

Mr. BOUCHER. So simply ending the Oil for Food Program, or phasing it out over a 4-month period, by itself is not sufficient?

Mr. EBEL. No.

Mr. BOUCHER. We require other action by the United Nations.

Mr. EBEL. Exactly.

Mr. BOUCHER. Now, who is proposing that that additional necessary action be taken? Does the United States have a resolution pending to that effect?

Mr. EBEL. It's contained in the resolution. It is contained in the resolution, and there are several——

Mr. BOUCHER. It's contained in the resolution that phases out Oil for Food over 4 months?

Mr. EBEL. Right. And there are several specific paragraphs in there, ensuring the potential purchaser that he won't be hit by any future legal claim.

Mr. BOUCHER. Mr. Barnes, do you want to comment on that?

Mr. BARNES. I was just going to say he's quite right. I guess the draft resolution is rather comprehensive, covers a number of subjects, including the Oil for Food Program, the phasing out, but also very specifically the whole question of title.

Mr. BOUCHER. So we do need U.N. action on this measure.

You are observers of what's happening at the U.N. How likely are we to get approval of this resolution?

Mr. EBEL. Unfortunately, I'm not privy to whatever back room dealings are going on these days, but I would hope that something could be worked out wherein Russia and France would have some reason to believe that their commercial interests were going to be protected.

Mr. BOUCHER. That's the key to getting it passed, in your opinion?

Mr. EBEL. That's my judgment.

Mr. BOUCHER. I only have one other question, Mr. Chairman. Thank you, by the way, Mr. Ebel and Mr. Barnes for that answer.

Mr. Caruso, you mentioned that prewar Iraq was producing 2.5 million barrels of oil per day, and you believe—or your projection is that Iraq can come back to that capacity by the end of this year.

Was that an export level for oil that was capacity related, or was that the limit that was allowed under the Oil for Food Program?

Mr. CARUSO. The 2.5 million barrels a day projection by the end of the year was that of Thamir Ghadhban, who is now the new interim head of the Oil Ministry. That is his——

Mr. BOUCHER. I'm not contesting the projection. I'm just asking whether——

Mr. CARUSO. No, I will just clarify that it wasn't an EIA projection.

The second part is that the productive capacity of Iraq, based on our best estimate, prior to the war was about 2.8 million barrels

a day. They were producing 2.4, 2.5. It was varying month to month, based on the sales process and various shenanigans that the Iraqi government was occasionally intervening. So it was not limited by their capacity, nor the Oil for Food Program, because the Oil for Food Program had expanded to the point where Iraq could have sold as much oil as they could produce. It was more of what the market would bear, given the contractual terms. As Chairman Tauzin pointed out, some of those contracts were not so appealing, because oftentimes you didn't know what the price would be until you actually lifted the oil. So that was the prevailing problem with that.

Mr. BOUCHER. Thank you.

The other question I have is, any projection that you or the other gentleman to whom you referred may be making about the capacity that Iraq will have for oil exports by the end of next year, perhaps by the end of 3 or 4 years, do you have any longer term projections on capacity?

Mr. CARUSO. Iraq, before the invasion of Kuwait, Iraq had been producing 3.5 million barrels a day, so there isn't any question that the resource base is there and the infrastructure at one time had been there. But, of course, it has deteriorated after 12 years of lack of investment.

So I think in the medium term—let's say that's a year or so—3 million barrels a day seems to be a reasonable target. Again, the interim head of the Iraqi ministry has said that as well. Over the much longer term, Iraqis at one time had a plan to go to 6 million barrels a day. That, of course, is going to take considerable investment and time, probably in the—certainly, even among the optimists, 3 to 5 years.

Mr. BOUCHER. Okay. That's fine.

Mr. Ebel, do you want to comment, briefly? My time has expired.

Mr. EBEL. I've had the privilege of working with the Iraqi opposition since before Christmas, at the request of the Department of State, in helping them better understand what lies ahead in terms of the future of Iraqi oil the morning after.

I would guess that to go from where they are today, in terms of producing capacity, to get them back to normal—and "normal" would be 3.5 million barrels a day—it might take 1½, 2 years, and it might take $5-6 billion. And then where do we go from there? We go to the 6 million barrels a day that the Iraqis want to reach as quickly as possible because they need the revenue.

What would that take in terms of time and in terms of money? In their judgment, it would take at least 5 to 6 years, and perhaps as much as $40 billion.

Mr. BOUCHER. Thank you very much.

Thank you, Mr. Chairman.

Mr. BARTON. Thank you.

The chair recognizes himself for 5 minutes. We're almost certainly going to have more than one round of questioning.

My first question—and I'm going to direct these to Mr. Ebel and Mr. Barnes, but if Mr. Caruso knows the answer, feel free to pitch in—who at the U.N. actually has administered the so-called Oil for Food Program? Is there an administrator and, if so, who is that individual?

Mr. EBEL. There is, but I'm sorry, Mr. Chairman, I do not know his name.

Mr. BARNES. Isn't it the Office of the Iraq Program?

Mr. EBEL. Yes.

Mr. BARNES. I think it's called that, and I also don't know the name of the administrator.

Mr. BARTON. Okay. Do you know if the same individual has been the administrator the entire time of the program?

Mr. EBEL. That I do not know.

Mr. BARTON. When our staff has contacted the United Nations, we've been told that they've been audited over 100 times, but we can't get any of the audit documents. Do either of you gentlemen know if they've ever really had an real audit of this program?

Mr. EBEL. I can only comment in this fashion, that the data that were provided in the CSIS report that I referenced in my testimony was found by accident. By accident, the U.N. posted on their website certain statistics that had not been made available previously. Of course, when they found out about it, they took it off. But fortunately, our people had seen it and took it off the website.

But as I mentioned, they don't publish the kinds of data that we need.

Mr. BARTON. Do either of you know if the United States, through EIA or the State Department, or the Department of Commerce, has ever formally requested a true audit of the program?

Mr. BARNES. I know they've been worried about it, but whether or not they've ever made a formal request, I do not know.

Mr. BARTON. Do you know, Mr. Caruso?

Mr. CARUSO. Certainly EIA has not. I know that based on the U.N. information here that available from the Office of Iraqi program, that they have provided an assessment report. According to this, the most recent one was toward the end of 2002, November 12, 2002.

Mr. BARTON. As far as you gentlemen know—and obviously, we don't expect you three individuals to be the universe of knowledge on the program—but there has never truly been an audit that's been publicly reported; is that a fair statement?

Mr. BARNES. Fair enough.

Mr. EBEL. Yes.

Mr. BARTON. Is there, under U.N. regulations, or any other international body, a mechanism that exists to get a real audit? In other words, this subcommittee wants to know how the program has been run and where the money has gone and what's been purchased, and we get snippets from various investigative reports. But is there a formal mechanism to actually get a true audit of the program?

Mr. EBEL. I'm not aware that there is, Mr. Chairman.

Mr. BARTON. Okay.

Mr. BARNES. Although I doubt—whether or not there is a formal mechanism, clearly a major funder of the United Nations, like the United States can certainly make, and I assume has made, informal representations of that effect.

Mr. BARTON. Well, we're certainly going to.

Mr. BARNES. That's what I suspect.

Mr. BARTON. I can guarantee that, that we're going to.

Let me ask another question. One of my oil and gas producers in Texas has told me, anecdotally, that right before the latest war Iraq was selling oil to Syria for $9 a barrel when the world price was over $30 a barrel. How could that be if the U.N. is administering all the oil sales and at least supposedly nothing is sold without U.N. permission? How in the world could Iraq be selling oil to another country for $9 a barrel, which was about $25 a barrel under the world price?

Mr. EBEL. It is my understanding, Mr. Chairman, it worked this way: there was a pipeline carrying oil from Iraq to Syria, handling about 200,000 barrels of oil a day, sold at a price well below the world market price. Some of that money, the difference between what the sale price was and what the oil could be sold for on the world oil market, was returned to Mr. Saddam Hussein.

Mr. BARTON. Is the number that I just stated within the boundaries of what you believe to have happened?

Mr. EBEL. I have only seen anecdotal evidence also, so I don't——

Mr. BARTON. Well, you're not under oath, so if you want to put in anecdotal evidence in——

Mr. BARNES. Anecdotal evidence, that's a fancy word for hearing stories. I have heard stories at $8 and $9.

Mr. BARTON. Okay. So I'm in the ballpark.

Mr. BARNES. Yes.

Mr. BARTON. If you wanted to speculate, would that be one reason Saddam Hussein and his thugs might have found sanctuary in Syria immediately after the war?

Mr. EBEL. That conclusion is an easy one to draw, Mr. Chairman.

Mr. BARTON. Mr. Caruso, do you have a comment on that?

Mr. CARUSO. I just wanted to add that the oil sold through Syria was outside of the—was not under any sanctions.

Mr. BARTON. Well, that's the whole point. If the U.N. is the paragon of efficiency and enforcement, there shouldn't be anything like that happening. That was the whole point in going through the illustrious United Nations, that they can manage this program effectively.

Mr. BARNES. And it was not just Syria. I gather there was a lot of smuggling going on. There was smuggling through small lighters into Iran, there was smuggling into Jordan, our ally, and smuggling into Turkey.

By the way, I do think our allies in the north, the Kurds, also made a sizable sum of money off marketing smuggled Iraqi oil.

Mr. BARTON. My time for the first round has expired.

Mr. BARNES. So it was going out all the way, all around.

Mr. BARTON. The gentleman from Texas, Mr. Hall, is recognized for 5 minutes.

Mr. HALL. Thank you, Mr. Chairman.

I notice in Mr. Barnes testimony, he said oil sales activities under Oil for Food were handled directly by members of the Iraqi government State Oil Marketing Organization——

Mr. BARNES. Right.

Mr. HALL. SOMO, I think is the word you used for it—and had no U.N. involvement.

Mr. BARNES. Except the verification of prices, if they were in the ballpark. Is that correct, Mr. Caruso?

Mr. CARUSO. Right.

Mr. HALL. You made the statement, and it's a correct statement, is it not?

Mr. BARNES. Yes.

Mr. HALL. Mr. Ebel, you stated on page 3 of your statement that the U.N. Oil for Food Program was shut down upon military intervention by coalition forces, but then resumed under the supervision of the U.N. Secretary General.

Mr. EBEL. That's correct.

Mr. HALL. It may be correct, but do you agree with that? They had no part in it before and gave no support to us, and 16 times out of 16 they turned their back on the United States of America.

Why should we turn it over to them now?

Mr. EBEL. The way that worked, Mr. Hall, was that they were spending money that it accumulated from previous oil sales.

Mr. HALL. Yes. Well, they weren't there when it was accumulating and they weren't handling it. Why would they handle it now? Why turn to them now? Why on earth would we turn to Turkey or France or Germany for any reconstruction program?

Mr. EBEL. It's still being handled by the United Nations.

Mr. HALL. Let me ask you, Mr. Ebel, what are the opportunities in this transition in exercising some control over the delivery of food or medicines to be sure from this point forward, at least, that it gets to the target that we intend it for?

Mr. EBEL. I think the difficulty will be that the distribution inside Iraq of the humanitarian goods and services are being handled by local Iraqis, and those local Iraqis have dispersed, so that the distribution these days is in shambles.

Mr. BARNES. I might note that there was always a distinction made in the distribution between—there was actually stuff distributed in the Kurdish portions of the north. That will probably be less disruptive. But in the balance of the country, you're quite right. We should anticipate disruption.

Mr. HALL. Mr. Caruso, do you have anything to add to that?

Mr. CARUSO. No, Mr. Hall.

Mr. HALL. Let me just understand where the three of you are. You all seem concerned about what the other Arab nations think about any actions that the United States might take as a conquering nation, fearful that they might think that we would want their oil for our consumption, knowledgeable that we get 55 or 60 percent of our energy from that area.

Are you all three just totally opposed to the United States recovering some of that gigantic cost that we expended, alone, with no help from the United Nations, with no help from Turkey, with no help from Germany, with no help from France, little help, if any, from Russia or China, to recover for hard-pressed American taxpayers, at this time when we have a deficit that's unbelievable, of some of our outlay for having to go alone in the conquering of as rogue nation? Is it just unthinkable that we would expect some retribution from a conquered nation?

How about you three as taxpayers? You three men are probably all big taxpayers—I hope you are. You should be. But is that just repugnant to you?

Mr. BARNES. I would note first of all that it is not in general concurrence with what we did in the past. After World War II, we did not lift the industrial capacity of Germany or Japan and ship it to the States. They were net recipients, huge net recipients of U.S. largess, these two countries that made world war, after World War II. So it would be a break with U.S. tradition to exact from Iraq significant expenditures.

I also believe there may be a legal question under the Geneva Convention that Mr. Ebel mentioned, which is that, although under the Geneva Convention—are we a signatory to this part of the Geneva Convention?

Mr. EBEL. We are under the Geneva Convention. We can use the income to pay for the cost of occupation, but not the cost of the war.

Mr. BARNES. Also, frankly, I find it really difficult to imagine making cash transfers from a war-ravaged county, with a per capita GDP of $1,500, to a country like the United States with a GDP of $11 trillion and a per capita GDP of $27,000 a year. That's an incredible transfer of income.

Mr. HALL. Do you find any problems with the drug companies in this country selling to Mexico and China prescription drugs at a fourth of what they sell to our people here? They base it on the same assumption that you use.

Mr. BARNES. It's called—If it means that people in Mexico are getting drugs, yes, I agree. I agree with that.

Mr. HALL. I think I probably asked you an unfair question. I'll withdraw it.

Mr. Chairman, I think I will reread their testimony, and I thank the gentlemen for giving us their time.

I yield back my time.

Mr. SHIMKUS. [Presiding.] Thank you, Mr. Hall.

The chair now recognizes the gentleman from Oregon, Mr. Walden, for 5 minutes—for 8 minutes. I'm sorry.

Mr. WALDEN. Thank you very much, Mr. Chairman.

Mr. SHIMKUS. Five plus three.

Mr. WALDEN. That's eight, which is probably better auditing and accounting than we're seeing in this program.

I want to go back to the issue of the audits. What would you recommend we do here to be able to actually figure out how this program has been audited, if it's been audited? How do we justify what's happened there in the UN?

Mr. EBEL. The only way, Mr. Walden, that we can find out is through a very thorough audit, and how can you force an audit on the United Nations. It would seem to me an intervention by the President of the United States, with a request made to the Secretary General, I think that would put him in a position of having to respond.

After all, the American taxpayer issue has already been raised, and we should have a right to know how our money is being spent at the U.N.

Mr. BARNES. I would note, by the way, that negotiations are ongoing about this U.N. resolution right now. I assume there's going

to be some "horse trading" going on, and presumably some request or some mandate for an audit could be part of the final resolution. Frankly, it's ongoing in New York right now.

Mr. WALDEN. Are you aware of any countries that object to an audit?

Mr. BARNES. I don't think people would object to an audit in public.

Mr. WALDEN. Another reason why the United Nations needs to live under some open meetings requirements.

Mr. BARNES. On the other hand, I am from Houston, which is the city of Enron, so we're a little bit touchy down there about transparency questions.

Mr. WALDEN. We are here in this committee as well.

The other issue I have is just in terms of making sure we have not only an adequate supply of oil and access to it, but a stable supply. These attacks 2 days ago, whenever it was, in Saudi Arabia by the Al Qaeda seemed to be extra-ordinarily well organized and executed.

My question is, what would have happened to oil supplies and oil prices had they picked refineries rather than housing compounds?

Mr. EBEL. The prices went up just because of the attack on the housing. The perception that this is a step toward perhaps an attack, just as you described, and the prices would probably—if the next attack is directed to a refinery, you would get a price jump of $3, $4, or $5 a barrel, and not that other producing nations might not be able to make up for that loss. But it's the traders operating in New York who anticipate we're going to have a shortfall in supply and then anticipating what the prices are going to be.

That was part of our worst case scenario that we developed at CSIS last November, where under a worst case scenario, where in addition to the loss of Iraqi oil you had an attack on Israel, the use of weapons of mass destruction, and terrorist activities inside of Saudi Arabia and Kuwait, taking more oil off the market, we saw oil prices spiking at $80 a barrel.

Mr. WALDEN. Eighty dollars?

Mr. EBEL. Eighty dollars a barrel.

Mr. WALDEN. If you took Saudi Arabia and Kuwaiti oil off the market——

Mr. EBEL. Right, and you didn't have to take it all off, just part of it.

Mr. WALDEN. Just disrupt it.

Mr. EBEL. Yes.

Mr. WALDEN. What part, what percent?

Mr. EBEL. It's difficult to say.

Mr. WALDEN. So the actual percentage wasn't the issue, as much as——

Mr. EBEL. As the perception, the psychological impact on the marketplace, yes.

Mr. WALDEN. If I recall, one of you indicated that the Iraqi oil production levels I guess the pre-Gulf War of 1991, was somewhere in the area of 2-3 million barrels a day?

Mr. EBEL. Well, the last normal year, in my judgment, for Iraqi oil was 1979, the year before the war with Iran. That was 3.5 mil-

lion barrels of oil a day. Then it declined during that war, and once that war was over, it started to go back up again. Then they went after Kuwait. They had gotten up to about 2.8, and along came the invasion of Kuwait and it dropped down to half-a-million barrels a day, until the sanctions came into play.

So, in my judgment, the last normal year for the Iraqi oil industry was 1979.

Mr. BARNES. And I think that Bob makes a good point, which I think a lot of people forget, which is that the current disrepair of the Iraqi oil industry dates back 20 years.

Mr. WALDEN. That was going to be my next question.

Mr. BARNES. Twenty years of chronic, looting and damage aside, 20 years of chronic underinvestment and mismanagement.

Mr. EBEL. We have had——

Mr. WALDEN. And that's at the refinery level as well as pipelines. It's across the whole spectrum?

Mr. EBEL. On two occasions we have had a Dutch firm go into Iraq and make an inspection of the Iraqi oil industry. Saybolt International is the name of the firm. They went in in 1998 and again in 2000, and both times their report stressed the status of the Iraqi oil industry as "lamentable." That was well over 3 years ago.

Mr. WALDEN. Can you give an estimate of what the cost would be to bring it up to modern standards, and the time-line?

Mr. EBEL. If we were to get it back to that normal level that I mentioned, maybe 3.2 to 3.5 million barrels a day, you have to look at it in terms of costs and in terms of time. A year-and-a-half to 2 years, maybe $5- to $6- to $7 billion. This is work that can be done by service companies. We're not yet involved in granting rights for foreign oil companies to come in and develop——

Mr. WALDEN. What kind of service companies have that capability?

Mr. EBEL. The ones that you've been reading about in the paper.

Mr. WALDEN. And are there others that do, or is that pretty special——

Mr. EBEL. Almost any country—you know, France could do it, Russia could do it, Germany could do it, Italy could do it. It's not a unique expertise by any means.

Mr. WALDEN. Three out of four I have a problem with, but go ahead.

Mr. CARUSO. Could I add a couple of points to that? I agree with the lack of proper maintenance and lack of investment, but the glimmer of good news out of this is the Iraqi technical competence is quite high.

Mr. WALDEN. Among the workers there who weren't part of the regime?

Mr. CARUSO. Yes. They've done wonders, given what they've been working with.

Mr. WALDEN. Is that the same on the power grid? We heard about how long it took Baghdad to get back on line, and part of that was——

Mr. CARUSO. I'm not sure about the electrical sector, but the oil sector, certainly.

Mr. EBEL. The problem with the power grid is whether it's the "chicken or the egg". The electric power stations in Iraq run on fuel oil, and where does the fuel oil come from? The refining of crude oil. If you don't have electricity, you can't run the oil pumps or the oil wells; you can't move the oil in the pipeline and you can't run the refinery. So it's——

Mr. WALDEN. How do you get it started. And isn't it a load management issue, the grid?

Mr. EBEL. It is. It's a distribution problem, both in electric power and in petroleum products.

Mr. WALDEN. Then as we look at not only the Iraq and Saudi Arabia and Kuwait issues, in terms of potential disruption by terrorists, refinery capacity and modernization or lack thereof, it want to compare it somewhat to what the President is proposing, to try and do a better job of developing domestic supplies of energy.

How does what's projected as possible oil supply in ANWR compared to what the Iraqi oil levels are, let's say?

Mr. EBEL. Let me answer that question this way.

The American consumer doesn't care where his oil comes from. He's not bothered by any discussion of energy independence. He only has two concerns: one is price, and the other is availability. The fact that in the year 2001 we imported 800,000 barrels of oil a day from Iraq was not a matter of concern to the man on the street.

We refined that oil, what we took from Iraq. We made some jet fuel, we put the jet fuel in certain of our military aircraft, and we go bomb Iraq. We returned his oil to him in a slightly different fashion. But no, he doesn't care where the oil comes from. If we can develop ANWR in a satisfactory environmentally accepted fashion, great. But in the end——

Mr. WALDEN. I should take you to some of my town meetings. They do have a concern about where it comes from.

Mr. EBEL. Sure. Well——

Mr. WALDEN. My point is, put it in perspective here. Is the volume estimated to be available in ANWR similar to that which was Iraq's output in 1979?

Mr. EBEL. No. Iraq, in 1979, produced 3.5 million barrels of oil and day, and none of the estimates that I have seen for ANWR would put potential production levels that high.

Mr. WALDEN. What would they put it at? Can somebody address that? I'm out of time.

Mr. CARUSO. We did a paper for the Senate last year, for actually then Chairman Murkowski, and the mean estimate using the USGS resource estimates for ANWR was a peak production of about 800,000 barrels a day. But at the high end of USGS, we got it up to 1.5. So it was kind of a range there.

Mr. WALDEN. So it's about what we were getting from Iraq, then, in recent years, the 800,000 barrel estimate that you referenced.

I'm sorry. I'm——

Mr. BARNES. No, no. It's about half of what we—You mean from importing into the United States or——

Mr. WALDEN. I thought I heard 800,000 barrels.

Mr. BARNES. That was imported into the United States. It wasn't production. The price——

Mr. WALDEN. I was talking about imported into the United States.

Mr. BARNES. I agree with Mr. Ebel. It doesn't matter where it comes from.

Mr. WALDEN. Well, we may disagree on that, but I understand what you're saying.

Mr. BARNES. It's a global price. It's set globally.

Mr. WALDEN. Price has some relationship to available supply, doesn't it?

Mr. BARNES. Yeah, on a global basis.

Mr. WALDEN. So if the terrorists shut down the supply in one of these countries, or the refineries don't get upgraded like they should, and we've got an asset sitting on the north slope that we, from a policy standpoint, say we're not going to access, that's going to affect price because it affects availability. That's the two things my consumers care about most, as you said.

As I said, as we look at our own assets here domestically, I have a greater sense of security about our ability to manage them and access them than I do about what may or may not happen in Kuwait or Iraq or Iran.

Mr. BARNES. But the main point is, it doesn't matter whether it comes here. The question is whether it goes into the world oil market, in terms of the disruption, not into the United States.

Mr. WALDEN. No, but in terms of the overall amount available on the world market, that's right. We're not disagreeing.

Thank you.

Mr. SHIMKUS. Thank you. I recognize myself for 8 minutes, and hopefully I won't take that long.

But let me start by saying that you've really got to love Ralph Hall because he asks some tough questions that our constituents want the answers to. And while I basically concur with a lot of the assessments, isn't it true, though, that there, in essence, can be— and I think we mentioned it at the end, Mr. Ebel, and maybe Mr. Barnes, at the end of post-war policing and really the cost of reconstruction in essence, if we get through all the title issues and stuff, reconstruction may greatly exceed the costs of the actual war; isn't that a fair statement?

Mr. EBEL. Many people look to oil revenue as paying all the bills. You cannot do that. If Iraq next year was exporting, let's say, 2 million barrels a day, at a price of $25 a barrel, that would give them an income of $20 billion. It sounds like an awful lot. But it isn't when you look at the tremendous financial need to get that country back on its feet, not just the oil sector, but the entire country's infrastructure—health, education, roads, housing. There is going to be so many hands dipping into that pot that there's not going to be enough for everybody.

Mr. SHIMKUS. But from our perspective, in the rebuilding of Afghanistan, which we're involved in the process with no natural resources, and the fact that Iraq has some, does tend a lot of us to believe that there will be some ability by their act, through their own natural resources, to help bear some of the burden of the cost. I mean, wouldn't that——

Mr. BARNES. Yeah. But you know what? We will have to pay part of the tab.

Mr. SHIMKUS. Well, we already have.

Mr. BARNES. It's not going to—As Mr. Ebel said, it is not going to be enough, and there will be demands on the U.S. taxpayer for years to come associated with the reconstruction of Iraq.

Mr. SHIMKUS. But for us to make a statement that Iraqi oil, their natural resources—I don't think we're disagreeing, but in the reconstruction, those dollars, some of it will have to focus on and pay for the rebuilding of Iraq. I mean——

Mr. BARNES. True.

Mr. SHIMKUS. Also, I have great respect for the ranking member. It was an interesting discussion on the title thing. Unfortunately, we play by the rules of law, you know, where if we were an Iraqi regime and sell it to Syria, maybe we ought to work with Syria to sell hundreds of barrels on the black market and help finance it and address the title concerns. Obviously, there wasn't a title concern to the end user of the black marketed oil. But since we play by the rules, we'll get burned with that.

Until there is a formal regime change and an official government of Iraq, whenever that occurs, what we're saying is the U.N. is the office of making the determination of how we move to, in essence, production and sale and the receipt of revenue for the Iraqi people; is that what we're saying?

Mr. CARUSO. The proposed resolution would change that. It would authorize the interim government to make sales, to convey title.

Mr. SHIMKUS. But, in the absence of that, we're stuck with the Oil for Food Program and——

Mr. EBEL. In the absence of that, you cannot export because there is no body that can grant legal title to the oil to be exported.

Mr. SHIMKUS. So the Oil for Food Program expires on June 3, if not extended.

Mr. EBEL. That's correct.

Mr. SHIMKUS. And if the Oil for Food Program expires, that does not mean that the sanctions imposed—you see, that's where I'm having a problem, between the Oil for Food Program and then the sanctions. They are really, in essence, a separate part of the debate. So if the Oil for Food Program expires, that doesn't mean that the sanctions imposed on Iraq by the United Nations will expire, does it?

Mr. EBEL. No, not in itself.

Mr. SHIMKUS. So if the sanctions remain and the program expires, the Oil for Food Program expires, Iraq could still not legally export oil?

Mr. EBEL. That's correct.

Mr. BARTON. Would the gentleman yield?

Mr. SHIMKUS. I would yield, Mr. Chairman.

Mr. BARTON. If the United States and Great Britain recognize an Iraqi oil ministry, or an Iraqi oil company, and that company sells to a British or U.S. oil company, why would that not be legal?

Mr. EBEL. I go back to my interpretation of what the occupying power can and cannot do under the Geneva Convention. My reading of the Geneva Convention is that the occupying power—in this instance, the United States and Great Britain—can sell, export the oil, and use the income inside Iraq for humanitarian purposes and

to pay for the cost of the occupation. Therefore, they would be granting legal title to the oil.

I think what we have in mind is, as quickly as feasible, setting up an interim Iraqi government——

Mr. BARTON. I understand that.

Mr. EBEL. [continuing] and then the U.N. recognizing that government and then——

Mr. BARTON. And I understand that.

Mr. EBEL. Right.

Mr. BARTON. But if you've got an intransigent U.N. Security Council because of proprietary commercial interests, there is nothing to stop the U.S. Government and the British Government from recognizing some entity within Iraq that's controlled by the Iraqis to sell oil, and as long as the willing purchaser is a British owned company or a U.S. owned company or, for that matter, any other company that recognizes title, to heck with the U.N.

I mean, they're not going to enforce it, and if you've got a willing buyer and a willing seller, and you've got the occupying powers, the liberating powers, sanctifying it, sanctioning it, that's all you need.

I mean, I'm not an attorney, and I'm certainly not an international attorney. But I believe, if I were an oil buyer, and I called the State Department and said the Iraqi interim oil ministry wants to sell me 100,000 barrels a day, and I'm willing to buy it, will you guarantee the contract, and the U.S. State Department says "yes, as long as it's in U.S. courts, you're okay," I believe I would do that.

Mr. EBEL. I think that the U.N. would have to recognize the interim Iraqi government as representing——

Mr. BARTON. What if they don't, though? What can the U.N. do?

Mr. HALL. How many divisions do they have?

Mr. BARTON. I mean, what can they do legally—forget militarily. Mr. Hall's a hawk and I'm the dove on this.

Mr. EBEL. I think that's where the resolution comes in, yeah.

Mr. BARTON. I understand the nicety of it, but I'm not sure of the necessity of it.

Mr. BARNES. Now, look. Once again, I am not a lawyer, either. But I do know that there is—and it's something along the lines you're talking about—there has been some talk of basic U.S. Government guarantee of title; in other words, a promise to indemnify in light of an adverse decision down the line. I have seen it in passing, but I cannot speak to the details of how you—I think that's close to what you're saying.

Mr. BARTON. I understand the international protocol, and I understand why it would be helpful to do exactly what we're trying to do in the U.N. today. But my point is, if the French and the Russians and the Germans, who have not exactly gone out of their way to be helpful, continue to be recalcitrant, I don't see any overcomeable, unovercomeable problem, as long as the U.S. and the British guarantee the contracts for selling the oil.

Mr. EBEL. If the resolution didn't pass and we wanted to move forward, and we wanted to get the oil industry going, and if the U.S. and Great Britain were prepared to grant indemnification, the oil would flow.

Mr. BARTON. There you go.

Mr. SHIMKUS. That was really the follow up. But let me, just for my own purpose—and then I'll return the chair back to the Chairman—who was the end user, the end purchaser, of the black marketed Iraqi oil that went through Syria?

Mr. EBEL. It worked out in a very interesting way. Most of that oil stayed inside Syria, and Syria exported it's own oil, taking advantage of high world market prices.

Mr. SHIMKUS. And who are the major purchasers of that? Did they just throw it on the open market?

Mr. EBEL. It just goes into the market.

Mr. SHIMKUS. I'm sure our European allies received——

Mr. BARNES. No, no. It's a——

Mr. SHIMKUS. Okay. Hold on, Mr. Barnes. I'm a free market economic MBA guy, so I understand that, as you add to supply in the world market, it affects it. But the reality is, as you add the to the supply, prices come down and everyone will benefit from that.

Mr. BARNES. Uh-huh.

Mr. SHIMKUS. Even our allies in Europe.

Mr. EBEL. So, in a way, that smuggled oil was added to the world oil market, added to supply.

Mr. SHIMKUS. Right.

Mr. EBEL. Indirectly, but it was added to the supply.

Mr. SHIMKUS. And to the benefit of Iraq and Syria, major terrorist states.

Mr. BARNES. And also oil consumers worldwide, as you just pointed out.

Mr. BARTON. But somebody pocketed the delta between $8 or $9 and $35, and that was not a transparent transaction.

Mr. EBEL. Right. Most of that ended up back in the pockets of Saddam Hussein.

Mr. SHIMKUS. My time has expired, and I will recognize the gentleman from California, Mr. Issa, and return the chair to the Chairman. Thank you.

Mr. ISSA. I guess my first question is, if the U.N. doesn't recognize a new entity, does it mean that the old entity still exists for purposes of transactions and contracts?

Mr. EBEL. Well, if the Oil for Food Program comes to an end——

Mr. ISSA. No, no. I didn't ask that question. Forget about that.

You had an entity that had contracts—and I'll be the devil's advocate because I'm the person most recently in Syria—if you, in fact, had a relationship between the old government and Syria, oil was pumping and dollars were being paid to the old government for the benefit of whatever——

Mr. BARTON. [Presiding.] The old government in Syria or the old government in Iraq?

Mr. ISSA. The old government in Iraq. We still have the same government in Syria, so far, as of this morning anyway.

Mr. BARTON. You said Syria. That's why I wanted to give you a chance to——

Mr. ISSA. But the relationship was between the old government of Iraq and the government of Syria. There was no new government under U.N. law. Does that mean that the old one still exists for purposes of contracts? Certainly the sanction is against the old

government. You know, you don't really sanction a country. You really sanction a government.

So if the sanctions are still in place, the Oil for Food is still in place, then the old government is still in place for purposes of the United Nations, isn't that correct?

Mr. EBEL. I'll give that one to you.

Mr. BARNES. I was going to defer to you, Mr. Ebel. I don't know. I'm not a lawyer, international lawyer. I don't know what the status of previous contracts are.

Mr. HALL. Mr. Chairman.

Mr. BARTON. If the gentleman wouldn't mind.

Mr. ISSA. I would yield.

Mr. HALL. Am I the only lawyer in this whole dang room?

Mr. BARTON. We hope, at the dias.

Mr. HALL. Well, I don't like lawyers, either, so I guess that puts us all on a level——

Mr. BARTON. You're even a judge. You've even been a judge.

Mr. EBEL. There is no functioning government in Iraq, but contracts do convey, even though governments change.

Mr. ISSA. Okay. So if there's a contract that does convey, and if, in fact, Syria were to be willing to turn back on under—because there was probably no written contract—under terms which would be reasonable and ordinary for the purpose of pumping oil through a pipeline that has existed since the 1950's, then, in fact, the oil pumping, the funds being received, and those funds going to what is truly an interim government—I mean, going to the oil ministry, at least for purposes of rebuilding the internal oil wells—there is nothing inherently wrong with that. At least, as non-lawyers, you know of no reason that couldn't be done today?

Mr. EBEL. The pipeline was shut down immediately following the military intervention. I am absolutely certain that Syria could buy as much oil as it wanted, if they're willing to pay the market price.

Mr. ISSA. And they would do that, in a sense, around the oil sanctions as the U.N. allowed——

Mr. EBEL. The pipeline is——

Mr. ISSA. Hold on. The U.N. clearly allowed and knew that Jordan, Turkey and Syria were transferring huge amounts of oil into their country and paying for it for years. Now, knowing that, looking at the U.N. dead in the eye and saying "Wait a second; it was okay for you to do it when Saddam was there. Is there any reason that—"

Mr. BARTON. Those were not sanctioned sales. Those were these under-the-table illegal sales, isn't that correct?

Mr. ISSA. Well, you know, the funny thing about illegal sales, Mr. Chairman, is——

Mr. BARTON. I'm asking. I don't know.

Mr. ISSA. Yes, they were outside of it, but, in fact, the whole world knew. It was said on these diases, it was said in the United Nations, it was said everywhere. And Jordan and Turkey and Syria moved billions of dollars in oil. It benefited those countries, it benefited the world oil market, but more importantly, it represented a potential revenue stream that should have benefited the people of Iraq.

That continuity, that relationship of those three contracts, is there any reason that you know of that those three contracts couldn't start flowing again under reasonable and ordinary terms? We didn't have transparency, so we'll assume that a pipeline pays $2, $3, $4 a barrel for transfer fees, whatever, based on the mile and so on, so somebody knows what would be fair and reasonable, that that couldn't start going again and the dollars flowing to the oil ministry today, because there is no new government—clearly, there's an old government, and under the old government, for the best part of a decade, these oil transfers occurred and we all knew it in the international community.

Mr. BARTON. So what's your question?

Mr. ISSA. I'm asking, do you know of any reason that they couldn't do it today? I mean, I'm hearing about how you can't suddenly have new oil, but you have three relationships that could, in fact, do it today, as much as they could do it for the intervening years, and France and Germany not only knew about it but they purchased that oil.

Conoco did those transfers in Syria. The world was very aware this was going on. Is there any reason that we couldn't turn them back on with one, two, or all three of these countries for the benefit of the Iraqi people today?

Mr. EBEL. First of all, you have to raise production.

Mr. ISSA. Why would they have to raise production? They were doing it under the old production.

Mr. EBEL. Current production today would not support exports. You have to bring your production back up to meet local demand and then, beyond that, those lines become available for export. The pipeline was shut down and all exports were cutoff the day of the military intervention.

Mr. ISSA. No, actually they were shut off after the military intervention was complete.

Mr. EBEL. Yeah.

Mr. ISSA. There were vehicles at the Turkish border even after Baghdad was under fire.

Mr. EBEL. Using oil, I believe, that had already been produced.

These arrangements between Syria, Turkey and Jordan certainly can continue, once legal title can be guaranteed, but they would have to buy the oil at arm's length.

Mr. ISSA. Actually, that wasn't the question. The sales ultimately were made and, under whatever terms they were made, if the oil ministry said today, for example—and I'll use Syria because they're the easiest to figure—"Here's a pipeline, here's a fee for the pipeline, and the balance comes to us." You know, Syria is not going to buy it at $28. They're going to buy it at essentially what they get at their port. They take $4 and the balance goes to Iraq. That's the effective price that would have normally occurred prior to the war, had there been a pipeline fee being paid.

I guess my question is——

Mr. BARTON. And this will have to be the last question of this round, because you're about 2 minutes over.

Mr. ISSA. I apologize.

Mr. BARTON. But I did take some of your time.

Mr. ISSA. I'll finish with an easier question.

What damage occurred to the oil wells that would cause the 400,000 barrels a day that were going out through these three other countries to not be available today? What physical damage occurred that I don't know about?

Mr. EBEL. Normally, you do take a chance when you shut in oil wells, you take a chance that, when you bring it back into production, they will have lost some pressure and you might not get the yield that you got before.

But again, you have to take steps to raise production to beyond what you need domestically before you have any surplus available for export. Iraq has not yet reached that point. Moving gradually toward it, step by step. But it's going to be a while yet before they're able to export volumes in any significant amount.

Mr. ISSA. Mr. Chairman, for the record, that's not a responsive answer, and I apologize for——

Mr. BARNES. I can answer. Extensively, people not turning up for work is two of the major reasons that there's not been production increases.

Mr. ISSA. Thank you.

Mr. BARTON. The chair is going to recognize himself for questions, for such time as he may consume, until another member comes in or until Mr. Issa decides that he wants to ask some. And this is going to be very informal, unless we get more members, in which we'll go back to the regular order.

I want to go back to something you said, Mr. Ebel, about only 25 percent of the proceeds under the U.N. program actually ended up going for food and the rest of the money was spent—I believe you said in 23 different sectors. Was that legally allowed, or was this another case, as Mr. Issa pointed out, of just a wink and a nod?

Mr. EBEL. That was the approved approach under the U.N. Oil for Food Program.

Mr. BARTON. So this concept in the general public, that we were allowing oil to be sold on the world market by the Iraqi oil companies so that we could provide food and medicine, that really wasn't the case. That was just kind of a cover.

Mr. EBEL. It gave the average person the implication that virtually all the money would be going for food. Of course, the numbers don't show that. The numbers support just as you had stated, 25 percent.

Mr. BARTON. So it really wasn't an Oil for Food Program. Were any of the proceeds allowed under the sanctions to go to Saddam Hussein's military?

Mr. EBEL. No.

Mr. BARTON. So they didn't go quite that far?

Mr. EBEL. No.

Mr. BARTON. But they could purchase in these 23 different sectors and the Iraqi government could obviously purchase things that could have a military purpose legally?

Mr. EBEL. Contracts were vetted very, very carefully to make sure that no dual use items appeared.

Mr. BARTON. Very, very carefully?

Mr. EBEL. Yes.

Mr. BARTON. Just as carefully as the U.N. administered the Syrian pipelines and things that Mr. Issa was talking about, that same degree of carefulness?

Mr. EBEL. The oil that was moved by pipeline to Syria was outside the U.N. Oil for Food Program.

Mr. BARTON. Well, it wasn't.

Mr. EBEL. But the world knew about it——

Mr. BARTON. None of the oil was supposed to be outside the program.

Mr. EBEL. The world knew about it, and knew about the arrangements with Turkey and Jordan, but a wink and a nod and it continued.

Mr. BARTON. In a legal, technical sense, was Saddam Hussein's government allowed to sell off-sanctioned oil? Was that part of the program? Were they allowed to do that? We know they did, but they shouldn't have been allowed.

Obviously, the only oil that was supposed to go out under the program was supposed to go in these sanctioned sales and the proceeds used in these prescribed areas. Were they allowed to kind of have "bootleg" oil? Was that part of the program?

Mr. CARUSO. The only exception was to Jordan. That was actually recognized as being a bilateral separate arrangement.

Mr. BARTON. But the Syrian connection that Mr. Issa mentioned, that was not? It just wasn't enforced.

Mr. CARUSO. That's right.

Mr. EBEL. Correct.

Mr. BARTON. I know you all aren't combative about this, but excuse me if I'm not real impressed with the ability of the U.N. oil administrator to enforce this program.

If we were under a UN-administered sanctioned program, why did we allow Saddam Hussein to pick his contractors? Why was that not done by the U.N. administrator?

Mr. EBEL. I can't answer that question, Mr. Chairman. I do not know.

Mr. BARTON. I mean, why would you let somebody who just invaded another country, in which you organized an international coalition of forces to liberate that country, and then impose these sanctions to prevent the rebuilding of the military of the invader, i.e., Saddam Hussein, why would you then turn around under an international U.N. sanctioned program, designed to help the Iraqi people, and let the dictator who organized the invasion pick his contractors? Why wouldn't the U.N. do it?

Mr. BARNES. I must note that the dual use—there was a special dual use committee that examined all the tenders, okay? Actually, it was a serious committee. There were U.S. representatives on that committee.

Vis-a-vis the other matter, I guess the general concept is we're talking about a country of 30 million people and essentially their entire imports. I guess the idea is, if you thought there was a lot of delay in issuing tenders under the U.N. system, can you imagine the U.N. deciding, somebody at the U.N. deciding every single bolt and light bulb that has to be imported by Iraq?

Mr. BARTON. How in the world could a U.S. representative allow Saddam Hussein—One of you testified, either Mr. Barnes or Mr.

Ebel, that beginning around the year 2000 Saddam Hussein began to pick contracts purely on political grounds to try to—you didn't use the word "buy off", but to try to——

Mr. BARNES. It was the dual use thing, to ensure that there were no imports of things that could be used for military purposes, which was correctly our No. 1 priority, my impression.

Mr. BARTON. Say that again?

Mr. BARNES. The dual use committee were examining the tenders to ensure that Iraq was not importing weaponry, or civilian goods that could be used as weapons, okay? That was a separate issue than both the ascertainment of prices on export and the broader approval of tenders for light bulbs. In other words, my impression is the U.S. took a great deal of care and interest in the dual use question to ensure that Iraq was denied technologies that had military use.

Mr. BARTON. It really seems to me that this program has never been audited, in a sense that we would understand an audit to be, who had a U.N. administrator who has apparently operated in the shadows, who allowed Saddam Hussein to pick his contractors, and who winked and nodded at huge amounts of oil that were used for purposes totally contrary to the reason the sanctions were imposed in the first place, that there's any reason for this program to continue to exist.

I have one more question. The number that I'm given that's in the escrow account right now is in the neighborhood of $12 billion. Is that a good estimate?

Mr. EBEL. In reality, I've seen $10.8 billion.

Mr. BARTON. Mr. Barnes?

Mr. BARNES. I've heard about $13 billion, which was closer to your number, of which $10 billion is basically obligated. In other words, they've identified contracts on things to buy, and $3 billion that's not obligated. That's my general sense.

Mr. BARTON. Mr. Caruso, do you have a——

Mr. CARUSO. That's the range that we've been——

Mr. BARTON. Does the EIA have the authority to find out officially how much is in that account, and if so, would you do so?

Mr. CARUSO. Certainly we'll——

Mr. BARTON. I'm going to try to find out through congressional inquiries, but if you could find out, too, we would appreciate it.

Mr. BARNES. But do recall—it's an important question, that there are two sorts of funds, the funds they have already identified, Russian widget manufacturers to export, and then the funds of which there's been no obligation whatsoever. I do know that there is some question, even in the U.S. resolution, that there is some interest in the U.S. saying, "Look, at least turn over those nonobligated funds post-haste." Mr. BARTON. Now, I have another question. There has been reported in the public press that Saddam Hussein had signed some contracts with Russian companies and then had abrogated those contracts. Now the Russians want the contracts that Saddam himself or his agents had abrogated, that those contracts be honored.

Does this panel have a position on those contracts?

Mr. EBEL. Back in 1997, Russia had signed a contract with the government of Iraq to develop the West Kurna oil field, down in

the southern part of the country. It's a major, major oil field that, at its peak, might be providing 700,000 barrels of oil a day. So it's a prize that you do not give up very, very quietly.

But, remember, the U.N. sanctions were in place and no company could go in and develop an oil field, so Russia had just sat quietly and took no action to develop the field. Iraq said okay, because you're not responding to the terms of the contract, we are abrogating the contract.

Russia then subsequently sent in a very high level delegation, got the contract renewed, put back on track, but soon thereafter Saddam Hussein said no, we're canceling it again. Russia will argue that contract sanctity is preserved in a change of government. I would think that, based on my conversations with the Iraqi opposition, they would say let's review the terms of all contracts that have been signed with the past government of Saddam Hussein, to make certain that they are in the interest of the Iraqi people.

Mr. BARTON. Is there an international precedent when a government, especially an unsavory government, is removed from power, that the contracts that government signed are routinely honored when there is a new government that's more internationally recognized put in place? When Nazi Germany fell in 1945, were their contracts honored by the occupying powers and the international community, or were they just abrogated?

Mr. EBEL. There is a feeling among the Iraqi opposition that, based on the success in Iraq, let's tear up all contracts and start all over again.

Mr. BARTON. Is that a generally a precedent that is recognized?

Mr. EBEL. Generally speaking, no. Generally speaking, you know, the world turns on contract sanctity.

Mr. ISSA. Mr. Chairman?

Mr. BARTON. The gentleman from California.

Mr. ISSA. If you would yield for a second.

Mr. BARTON. Surely.

Mr. ISSA. Perhaps the appropriate question is, has the Soviet Union ever paid the Russian Tsar's debts or honored their contracts?

Mr. BARTON. Or the Communist Chinese. I mean, there are any number of——

Mr. ISSA. The actual parties that are now asking for contract sanctity have no such record of honoring their own debt.

Mr. BARTON. Or Imperial Japan at the end of the war. There are all kinds of precedents, or when North Vietnam invaded South Vietnam.

Mr. BARNES. It's a complicated—I mean, I'm not a lawyer, but, for instance, there's the question of treaties. We do know that, after discussion, we did determine, for instance, that Russia did have to comply with treaties entered into by the Soviet Union with the United States.

Mr. ISSA. That's Soviet to Russia, not Russia to Soviet.

Mr. BARNES. Right. But I'm just pointing out that—I know that there is a certain amount of conveyance that occurs in things, and I'm not sure how much case law there is. But some conveyance does occur.

Mr. BARTON. Let me ask on the Russian contracts that are in question in the media, were those sanctioned under the U.N. sanctions? Did Saddam Hussein have the right, at that time, to enter into that contract according to the U.N. sanctions in place at that time?

Mr. EBEL. You can enter into a contract, but the contracting company—in this case, the Russian company—could not perform under the contract as long as sanctions were in place, and Russia did not perform under the contract.

Mr. BARTON. But Russia had the right to sign the contract?

Mr. EBEL. They signed the contract with the Iraqi government.

Mr. BARTON. I'm not sure I can one way or the other as a person, but as a Member of Congress, I have to care.

Mr. EBEL. I'm sure that if the sanctions were taken off, Russia would go in and start work under the contract.

Mr. BARTON. But would that contract have been submitted to the U.N. before it was signed?

Mr. EBEL. No.

Mr. BARNES. No.

Mr. BARTON. Did Saddam Hussein have to submit—should he have submitted it?

Mr. EBEL. No.

Mr. BARTON. He did not have to?

Mr. EBEL. He did not.

Mr. BARTON. My staff says he could have produced the oil, but had he produced it, the oil would have gone through the United Nations, which is why he didn't do it.

Mr. EBEL. That's right. He couldn't do it.

We had an interesting visitor at CSIS last Monday, George Sorells. He was speaking at a luncheon meeting that we had. And to broaden your question, he thought that all lending that the international financial institutions had made to the Iraqi government should be dissolved, wiped off the books, carrying the message that international financial lending institutions in the future should think twice before they loan money to a terrorist regime.

Mr. BARTON. I want to go back to this money in the escrow account, somewhere between $10-13 billion, of which perhaps $10 billion has already been obligated.

Is there an alternative mechanism in place, a financial institution, an economic institution, that could take possession and administer those funds? Could you put it through the World Bank? Could you put it through the International Monetary Fund? Could you put it through USAID, or the international energy agency that the U.S. is a part of?

Mr. EBEL. I think the resolution being submitted to the United Nations provides for a role, not just for the United Nations, but of several international financial institutions for oversight.

Mr. BARNES. For financial oversight.

Mr. BARTON. But we wouldn't have a problem finding a place to put that money?

Mr. BARNES. I don't see the IMF issuing tenders for light bulbs.

Mr. EBEL. No.

Mr. BARNES. Which is basically what a lot of this stuff is.

Mr. BARTON. The answer I want to hear is the U.N. is not the only place that we could administer the existing funds. There is someplace else that could do it.

Mr. EBEL. Yes.

Mr. BARTON. This is my last question, unless Mr. Issa has a question. Mr. Issa, do you wish to ask any more questions before we conclude?

Mr. ISSA. No, I'm enjoying yours.

Mr. BARTON. Is there any reason, given all the evidence in the past and what has happened in the present, and what we expect to happen in the future, that the U.S. Government and the international community should continue to sanction the existence of the U.N. so-called Oil for Food Program?

Mr. EBEL. No, not in my judgment.

Mr. BARTON. Mr. Caruso?

Mr. CARUSO. No. It's unnecessary.

Mr. BARTON. Mr. Barnes?

Mr. BARNES. Phase it out and turn it over to the interim government as soon as possible.

Mr. BARTON. Well, my staff wants me to ask one more question. I thought that was a great question to end on. We got the answer we wanted.

Mr. ISSA. Mr. Chairman, we can always reverse the order in which it's published.

Mr. BARTON. Oh, I don't mind.

What would be the consequences if oil sales to the international community resumed, the Oil for Food Program expired, but yet the sanctions remain in place?

Mr. ISSA. They're telling you to end on the previous question.

Mr. EBEL. The sanctions have to be off, period.

Mr. BARTON. Mr. Barnes?

Mr. BARNES. I'm not a lawyer. We seem to be saying that a lot today. I agree. You have to have the sanctions taken off, or the Oil for Food Program continued. As we have all agreed, there is no reason to continue the Oil for Food Program.

Mr. BARTON. Mr. Caruso?

Mr. CARUSO. I think the major companies would be unwilling to take that kind of risk.

Mr. BARTON. Unless the U.S. Government and the British Government and other governments indemnified——

Mr. BARNES. Yes, offered to indemnify.

Mr. BARTON. I just have to believe that British Petroleum and Royal Dutch Shell, ExxonMobile and some of the Japanese companies, as long as the military power is in control guarantees that——

Mr. BARNES. And then Total would be willing to buy, too, if it was guaranteed.

Mr. BARTON. I beg your pardon?

Mr. BARNES. Total would be willing to buy it, too, if it was guaranteed.

Mr. BARTON. Yes. So in a real world sense, it's not a necessity, and in an international political sense, it would be helpful. That would be my answer to that.

I want to thank you gentlemen for coming. This has been an excellent hearing. This is a major issue that's in play right now. I am going to be officially asking the U.N. for some answers to the same questions we have asked you gentlemen. I am also going to be asking the Bush administration to help in getting those answers. And, Mr. Caruso, if you could give us as much information as you can obtain about the status of the existing funds, I would appreciate that very much.

This hearing is adjourned.

[Whereupon, at 12:10 p.m., the subcommittee adjourned.]

○